



# THE NEPAL CHARTERED ACCOUNTANT

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# THE NEPAL CHARTERED ACCOUNTANT

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# Editorial

The Institute of Chartered Accountants of Nepal celebrated its Silver Jubilee on 17<sup>th</sup> Magh 2078 (31<sup>st</sup> January, 2022) as a pioneer and regulatory accounting body of the country. The special celebration program was organized at ICAN head office situated at Satdobato, Lalitpur. To mark the silver jubilee the Institute decided to celebrate it around the year by organizing various program at national and provincial level with the intent to raise the social recognition and faith of general public and stakeholders towards the accounting profession in Nepal. All the members of the Institute and stakeholders deserve special appreciation for achieving this milestone.

In last 25 years, the Institute has made a remarkable achievement and changed the landscape of accounting profession in the country. As the Institute has come of young age, it has developed major infrastructures required mainly for operating educational and regulatory requirements constructed its own building with amenities catering to students, members and staff. The Institute has been able to obtain membership from international and regional organization of accounting bodies like IFAC (2008) and SAFA (1997) membership within a small span of its establishment. It has established relationship with professional accounting bodies from SAARC regions including others and signed various MOUs and MRAs with PAOs and has continued its efforts to extend its initiatives. These initiatives have helped to obtain their support and increased the image of the Institute.

The institutes for the first time held CA exams in 2000 and currently, more than 630 Chartered Accountants graduated from the Institute to accumulate total 1,775 Chartered Accountants and 7,234 Registered Auditors members. The members of the Institute have been serving in public and private sector and contributing to the national development of the country. The Members of the Institute have not only excelled in accounting and auditing sphere but have left an indelible mark in multiple areas in private and public sector and contributing meaningfully

to the functioning of organizations, financial markets, and economies.

In taking stock of journey of 25 years the Institute has made a few strides forward however, there is still more to be done. Reform is continuous process. In this process, the Institute has felt a need to amend its extant legislation in accordance with changing environmental factors and global scenario. In an effort to reinvent and reengineer, the Institute restructured governance set up and it has decided to go digital so as to provide seamless services to the members and imparting the latest and best knowledge to its students. Despite many achievements of the Institute still there are some operational system and areas that need to be upgraded. In this backdrop the Institute has incorporated some strategic issues such as reinforcing of regulatory and supervisory apparatus, enhance professional development along with other strategic domains in its third Strategic Plan 2021/22 to 2023/24 and being operationalized.

The government has always supported the Institute and reposed trust in it. Institute is always ready to partner with the federal and State government in capacity building of public service personnel especially in public financial management, tax and revenue generation strategies etc. The Institute is committed to increase its share of contribution to the society by upholding public interest and national economy as envisioned in the Nepal Chartered Accountants Act.



# President's Message

## **Dear Professional Colleagues,**

It is with that I welcome you all to the January to March 2022 Journal of the Institute. As we know January 2022 remained a month of special significance for us as we celebrated the Silver Jubilee (25<sup>th</sup> Anniversary) of establishment of our esteemed organization that added one more step forward towards the journey of Professional Excellence. Over the last two and half decades, the Institute has been playing profound role to promote, regulate and professionalize accounting profession in the country. The Institute is also dedicated for contributing towards upholding public interest as per the objective of the Institute to develop and maintain a strong, transparent and accountable accounting profession in the forth coming days.

It is my second communication with you through this Journal and I take this opportunity to share some of the key activities of the Institute accomplished during the period of January to March 2022.

### **Regulation and Supervision**

Continuing with the commitment to strengthen the legal framework of the Institute to enhance the regulatory and supervisory functions and demonstrate as a responsive professional body and regulator of accounting profession the Institute has been conducting quality assurance review of practicing firms as part of its regulatory function. Likewise, several activities were conducted to raise awareness about authenticity and use of Unique Document Identification Number (UDIN) amongst the members and stakeholders. It is hoped that such regulatory process will help not only to encourage members to maintain quality of professional services but also increase the trust of the stakeholders towards the profession.

### **Professional Development**

With an objective to enhance the highest standards of professional competence and ethical conduct in consonance with international norms and practices, the Institute has been organizing various trainings, workshop, conferences and programs. During this quarter, the Institute organized a five days training on “Mitigation of Gaps Identified in NFRS Implementation Status in State Owned Enterprises”, “Nepal Financial Reporting Standards for Small and Medium Enterprises” and “Code of Ethics”. Likewise, interaction program on “Biological Assets” and “Nepal Standards on



Quality Control” were organized at branch level. CPE program along with RA Members Capacity Development Programs were continued during this period. The Institute also facilitated webinar on Audit Practice Management Software for its members in practice.

### **Educational Activities**

The Institute published result of Chartered Accountancy Examination of December 2021 sitting where 25 students were qualified to apply for CA Membership. The Institute also conducted Orientation Program for newly enrolled students in CAP-I Level, pre-articledship orientation program for CAP II passed students and organized 20<sup>th</sup> batch of General Management and Communication Skills for CAP III qualified and appeared students. Moreover, the Institute facilitated Students Participation in 36<sup>th</sup> International CA Student’s Conference, 2022 held in Sri Lanka.

### **National Relation: Public and Government**

The Institute has always prioritized to develop strategic relationship with stakeholders in Government and Corporate Sector as a partner in nation building. In this context, Institute has signed Memorandum of Understanding with Insurance Board for facilitating exchange of information and mutual cooperation. Moreover, Institute has also participated in “Interaction Program on Anti-Money Laundering and Combating the Financing of Terrorism” organized by the Nepal Rastra Bank on 28<sup>th</sup> March, 2022. During this quarter, Institute has organized two workshops on “Dimension of Public Financial Management at Province and Local Level” at Biratnagar on 25<sup>th</sup> February and 25<sup>th</sup> March, 2022 respectively. Similarly, a workshop on “Practical Issues of Taxation, Value Added Tax and Liquidity Scenario” was organized at Dhangadi on 21<sup>st</sup> March, 2022. Furthermore, an interaction Program on Roles and Activities of the Institute of Chartered Accountants of Nepal was conducted at Biratnagar on 24<sup>th</sup> March, 2022.

### **International Relation: Global Positioning and Leadership**

As a continuity to establish International Relations to enhance its credibility and achieve Professional Excellence, the Institute signed Technical Collaboration Agreement with The Institute of Chartered Accountants

of Sri Lanka. Likewise, delegation from the Institute also visited the Institute of Chartered Accountants of Bangladesh (ICAB) with the objective to understand the Chartered Accountancy syllabus implementation process adopted by ICAB. Moreover, the Institute also attended the 25<sup>th</sup> South Asian Federation of Accountants, Best Presented Annual Reports Award, 2020 Ceremony.

### **Institutional Development and Sustainability**

The Institute celebrated its Silver Jubilee on 31<sup>st</sup> January, 2022 at Head Office and the celebration was telecasted live in its social network site. During the celebration, the Institute conferred Special Honor to the Founder President, Late CA. Komal Bahadur Chitracar for his remarkable contribution towards the development of Institute and Accounting Profession at large in the country. Likewise, the Institute also felicitated five staffs in recognition of their 25 years long-term service with “*Dirgha Sewa Padak*”, three staffs were awarded as “Best Staff of the Year” for their outstanding performance and two staffs were given “Certificate of Appreciation” for their performance and dedication towards assigned tasks. The Annual Report of Fiscal Year 2020/21 was also presented during this celebration. Moreover, a “Silver Jubilee Souvenir” (Published in reminiscence of last twenty-five years of history of the Institute) and “Strategic Plan of the Institute for the period of 2021/22 to 2023/24” was also revealed by the Hon’ble Auditor General during this occasion. Similarly, 20 new staffs were appointed at different level and have been deputed at Head Office and Branch Offices.

### **Concluding Remarks**

Before I conclude, I assure you all to keep abreast of important events and updates of the Institute through e- News and in the upcoming Journal. I request you to continue reading this publication as it contains relevant information issues and new trends in the professional arena that will broaden your knowledge.

I wish all our members, students, readers and stakeholders a happy, healthy and prosperous Year 2079 B.S.

**CA. Yuddha Raj Oli**  
**President, ICAN**

# Accounting for Crypto Currencies

"The only constant in life is change." - Heraclitus

The cryptocurrency industry is still young but is growing rapidly. There are very few crypto currencies mining companies that use computers to solve complex computational problems to validate transaction and generate new crypto currencies.



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## Introduction

As quoted above, money has seen its fair share of changes over its lifetime. We have used different materials from stone coins to precious gems to paper notes as a medium of exchange. Later on the introduction of banks gave birth to digital transactions and digital wallets where money has no physical existence. The latest change in the field of money is the introduction of cryptocurrency.

In simple terms, cryptocurrency is a type of digital or virtual money created from code. It serves as

ordinary money, such as dollars, pounds, rupees, euro etc. but it has no physical counterparts like paper notes and coins. A cryptocurrency is a form of digital asset based on a network that is distributed across many computers. This decentralized structure allows them to exist autonomously, outside of the traditional banking and government systems.

The decentralized crypto currencies we hear about today started with Bitcoin in 2008. It was developed and launched by an unknown individual or group commonly

known as “Satoshi Nakamoto”. The currency began its use in 2009 when it was released as an open-source software. As of April 2022, there are over 19 million bitcoins in circulation with a total market capitalization of around 765.9 billion dollars. After the success of bitcoin, many other crypto currencies spawned such as Litecoin, Peercoin, Dogecoin, Ethereum etc. Many countries have issued their own cryptocurrency like the Sand Dollars by The Bahamas, e-Naira by Nigeria and many countries like China, India, Sweden are on their way to develop their own cryptocurrency. By April 2022, the aggregate value of all the crypto currencies in circulation is over 2.48 trillion dollars.

### Features of Crypto currencies

Some key features of Crypto currencies are:

- a) Crypto currencies exist only in the digital world and have no physical existence.
- b) Crypto currencies are decentralized which means they are not controlled by the government, person, or group.
- c) Crypto currencies depend on a peer-to-peer network which makes sure the transactions are carried out safely.
- d) Crypto currencies use block chain technology such that participants can confirm transactions without a central clearing authority.
- e) Crypto currencies transactions are super-fast as they are immediately caught up in the network and confirmed within minutes.
- f) Crypto currencies are created by mining (using the power of computers to solve complex algorithms), and often there is a limit on the maximum number of coins that can exist (like maximum 21 million bitcoins).

Crypto currencies are still only potential currencies. Due to its volatility, people look at them more as an investment rather than a medium of exchange. It has only been recognized and legalized as a transactable currency by a few countries. Even Nepal Rastra Bank has declared cryptocurrency transaction as illegal in Nepal.

However, day by day more and more countries are going forward and legalizing cryptocurrency. With this change in dynamics coming, it might not be far away that Nepal will also address the need for legalizing crypto currencies and we as accountants need to be ready on how we will account for these digital currencies.

### Accounting of crypto currencies

As such there is currently no accounting standard that describes the accounting for crypto currencies. Thus, we need to develop our own accounting policy in accordance with Nepal Accounting Standards (NAS) 8. NAS 8 states, in absence of an NFRS that specifically applies to a transaction, other event or condition, management shall use its judgment in developing and applying an accounting policy. In making such judgment, the management shall refer to, and consider the applicability of the following resources in descending order:

- a) Requirements in NFRSs dealing with similar and related issues;
- b) Definitions, recognition criteria and measurement concepts for assets, liabilities, income, and expenses in the Framework;
- c) Recent pronouncements of other Standard-setting bodies that use a similar conceptual framework to develop accounting standards to the extent that these do not conflict with (a) and (b) above.

Let’s sum up the characteristics of cryptocurrencies and look at our possible options:

- a) Since cryptocurrencies can be used as a medium of exchange, maybe we can consider them as Cash or Cash Equivalent under NAS 7
- b) Since many consider cryptocurrencies as investable assets, maybe it should be accounted for as Financial Assets as per NFRS 9.
- c) Since cryptocurrencies have no physical existence and exist only in the digital world, maybe they can be considered Intangible Assets under NAS 38.

Let us consider our options one by one.



### Option A: Cash & Cash Equivalent (NAS 7):

At first glance, it might appear that cryptocurrency should be accounted for as cash because it is a form of digital money.

NAS 7, *Statement of Cash Flows*, doesn't provide a clear definition of cash, merely stating that "Cash comprises cash on hand and demand deposits." To obtain a more detailed definition of cash, we need to look at NAS 32, *Financial Instruments: Presentation*, which states that "Currency (cash) is a financial asset because it represents the medium of exchange and is therefore the basis on which all transactions are measured and recognized in financial statements."

Looking at this definition, it becomes clear that crypto currencies cannot be considered cash (currency) because they cannot readily be exchanged for any good or service. Although an increasing number of entities are accepting digital currencies as payment, they are not yet widely accepted as a medium of exchange and do not represent legal tender.

But is it equivalent to cash?

NAS 7, *Statement of Cash Flows*, defines Cash Equivalents as "Short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value". With the existence of crypto markets and super-fast cryptocurrency transactions happening all the time, crypto currencies can be termed as short term, highly liquid investments. However, at present, crypto currencies are subject to significant price volatility with prices changing rapidly (e.g. Bitcoin lost about 28% of its value in January 2018). Due to such significant changes in value, it does not appear that digital currencies represent cash or cash equivalents that can be accounted for in accordance with NAS 7.

### Option B: Financial Assets (NFRS 9 and NAS 32):

Another opinion might be to account for crypto currencies as Fair Value through Profit or Loss. However, for such an approach, crypto currencies would need to meet the definition of financial instruments as per NAS 32.

NAS 32, *Financial Instruments: Presentation*, defines a financial asset as "Any asset that is:

- a) cash;
- b) equity instrument in another entity;
- c) a contractual right:
  - i) to receive cash or another financial asset from another entity; or
  - ii) to exchange financial assets or financial liabilities with another entity under conditions that are potentially favorable to the entity.
- d) a contract that will or may be settled in the entity's own equity instrument and is:
  - i) a non-derivative for which the entity is or may be obliged to receive a variable number of the entity's own equity instrument; or
  - ii) a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments."

It is obvious that crypto currencies are not equity instruments and by our previous discussion, crypto currencies are not cash as well. So, only part 'c' of the definition needs to be considered. Possession of crypto currencies does not give the holder any contractual right to receive cash or another financial asset. Therefore, it appears cryptocurrency should not be accounted for as a financial asset.

### Option C: Intangible Assets (NAS 38)

IAS 38, *Intangible Assets* defines intangible assets as "an identifiable non-monetary asset without physical substance."

An asset is identifiable if:

- a) it is separable (i.e. it is capable of being separated or divided from the entity and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, identifiable asset or liability); or
- b) it arises from contractual or other legal rights.

Also, as per NAS 21, *The Effects of Changes in Foreign Exchange Rates*, “an essential feature of a non-monetary asset is the absence of a right to receive (or an obligation to deliver) a fixed or determinable number of units of currency.”

Now let us link the features of cryptocurrency with the definition of Intangible assets:

- a) Cryptocurrency holdings can be traded in an exchange separately from the entity and therefore are identifiable.
- b) The value of crypto currencies is subject to major variations due to demand and supply and cannot be predicted. Thus, it is a non-monetary asset.
- c) Crypto currencies are a form of digital money and do not have physical substance.

It appears that cryptocurrency meets the definition of an intangible asset and therefore should be accounted for under NAS 38.

NAS 38 allows intangible assets to be measured using either cost model or revaluation model. Using the cost model, intangible assets are measured at cost on initial recognition and are subsequently measured at cost less accumulated amortization and accumulated impairment losses. Using the revaluation model, intangible assets can be carried at a revalued amount less accumulated amortization and accumulated impairment loss. NAS 38 states that a revaluation gain should be recognized in Other Comprehensive Income and accumulated in equity. However, a revaluation gain should be recognized in profit or loss to the extent that it reverses a revaluation loss of the same asset that was previously recognized in profit or loss. Similarly, a revaluation loss should be

recognized in profit or loss. However, the loss shall be recognized in Other Comprehensive Income to the extent of any credit balance in the revaluation surplus in respect of that asset.

Where the revaluation model can be applied, NFRS 13, *Fair Value Measurement*, should be used to determine the fair value of the cryptocurrency. NFRS 13 states that judgment should be applied to determine whether a principal market (active market) exists for cryptocurrency or not. NFRS 13 defines an active market as “a market in which transactions for the asset or liability take place with sufficient frequency and volume to provide pricing information on an ongoing basis.” It is generally unusual for intangible assets to have active markets. However, cryptocurrencies are often traded on an exchange and therefore it may be possible to apply the revaluation model.

An entity will also need to assess whether the cryptocurrency’s useful life is finite or indefinite. An indefinite useful life is where there is no foreseeable limit to the period over which the asset is expected to generate net cash inflows for the entity. It appears that crypto currencies should be considered as having an indefinite life for the purposes of NAS 38. An intangible asset with an indefinite useful life is not amortized but must be tested annually for impairment.

As there is so much judgment and uncertainty involved in the recognition and measurement of crypto currencies, a certain amount of disclosure is required to inform users in their economic decision-making. Along with normal disclosures of NAS 38. NAS 1, *Presentation of Financial Statements*, requires an entity to disclose judgements that its management has made in the process of applying the entity’s accounting policies, in this case accounting policy for crypto currencies, if those judgements have the most significant effect on the amounts recognized in the financial statements. Also, NAS 10, *Events after the Reporting Period* requires an entity to disclose any material non-adjusting events. This would include whether changes in the fair value of cryptocurrency after

the reporting period are of such significance that non-disclosure could influence the economic decisions of users of financial statements.

### Let's not forget Inventories (NAS 2):

NAS 38 does not apply to intangible assets held by an entity for sale in the ordinary course of business. Depending on an entity's business model, in very narrow circumstances, crypto currencies may be accounted for under NAS 2, *Inventories*.

NAS 2 states that inventories should be measured at lower of cost of net realizable value except for inventories held by commodity broker-traders. Inventories held by commodity broker-traders are measured at fair value less cost to sell and changes in fair value are recognized in Profit or Loss. There is no further interpretation on commodity broker-traders in the context of crypto currencies. Intuitively, this approach might seem appropriate, however one may argue that crypto currencies not having any physical substance doesn't qualify it to be considered as a commodity. Thus, for the narrow exceptions where a business model exists involving buying cryptocurrency assets with the purpose of sale in ordinary course of business in near future, NAS 2, *Inventories* may be used to account for them.

### International Accounting Practice:

The cryptocurrency industry is still young but is growing rapidly. There are very few crypto currencies mining companies that use computers to solve complex computational problems to validate transaction and generate new crypto currencies. Some of the big names in crypto mining include Riot Blockchain Inc., HIVE Blockchain Technologies Ltd., Bitfarms Ltd., Hut 8 Mining Corp., Marathon Digital Holdings Inc. etc. Let us analyze how these companies are accounting for crypto currencies held.

The extract of financial statements disclosing accounting for cryptocurrency assets (digital assets) by some of these companies are given below:

*“Crypto currencies held are accounted for as intangible assets with indefinite useful lives. An intangible asset with an indefinite useful life is not amortized but assessed for impairment annually, or more frequently, when events or changes in circumstances occur indicating that it is more likely than not that the indefinite-lived asset is impaired.”*  
– Riot Blockchain Inc (Annual Report 31<sup>st</sup> December 2021)

*“The Company has assessed that it acts in a capacity as a commodity broker-trader as defined in IAS 2, Inventories, in characterizing certain of its holdings as inventory, or more specifically, digital assets. If assets held by commodity broker-traders are principally acquired for the purpose of selling in the near future and generating a profit from fluctuations in price or broker-traders' margin, such assets are accounted for as inventory, and changes in fair value (less costs to sell) are recognized in profit or loss.”* – HIVE Blockchain Technologies Ltd. (Consolidated Financial Statements 31<sup>st</sup> December 2021)

*“Cryptocurrency on hand at the end of a reporting period, if any, is classified as digital assets, and is accounted for under IAS 38 Intangible Assets, as an intangible asset with an indefinite useful life initially measured at cost, deemed to be the fair value upon receipt as described above, and subsequently measured under the revaluation model.”* – Bitfarms Ltd. (Consolidated Financial Statements 31<sup>st</sup> December 2021)

From the above notes, we can observe that the cryptocurrency mining companies around the world use either NAS 38, *Intangible Assets* or NAS 2, *Inventories* to account for their cryptocurrency assets (digital assets) in accordance with the company's business model. However, the accounting policy applied by these companies are different, with some companies opting for cost model while other companies opting for revaluation model. Still, the main observation is that most companies consider cryptocurrency assets as an intangible asset or inventory as we discussed above.

### **Crypto currencies in Nepal:**

Crypto currencies are yet to gain trust mostly in developing countries like Nepal mainly considering its security and volatility. Nepal Rastra Bank through notice dated 2078/05/24 has declared transaction, use and mining of cryptocurrency as illegal in Nepal and has warned that people involved in such activities shall be punishable according to law. This notice has even barred non-nationals living in Nepal from transacting in crypto currencies. However, recently news has surfaced indicating that Nepal Rastra Bank has initiated a preliminary study to launch a digital currency in Nepal. Nepal still has a long way to go before launching its own digital currency, however with our neighbors China and India slowly embracing the importance of digital

currency, it might not be far that Nepal will also embrace this changing scenario.

### **Conclusion**

In conclusion, accounting for crypto currencies is not as simple as it might first appear. As no accounting standard currently exists, reference must be made to existing accounting standards (and perhaps even the Conceptual Framework of Financial Reporting) and judgment shall be used in developing and applying appropriate accounting policy.

### **Suggestions-**

1. It would be appropriate to mention the international practice in accounting for cryptocurrencies.
2. Practice of cryptocurrencies in our context.



# Beware!! At what cost are you sharing your KYC ?

*KYC data protection should be given top most priority more than ever now both in paper and after entering into the system. i.e. Protection of both KYC forms and digital records from potential beach.*



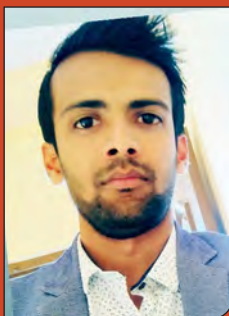
## What is KYC ?

KYC, as we know, stands for “Know Your Customer”. It refers to the steps taken by a financial institution (or business) to establish customer identity, understand the nature of the customer’s activities (primary goal is to satisfy that the source of the customer’s funds is legitimate), assess money laundering risks associated with that customer for purposes of monitoring the customer’s activities.

Although the phrase “Know Your Customer” may seem insignificant to most people, it has a very important

meaning in the business world. The process of knowing your customer, otherwise referred to as KYC, is what businesses do in order to verify the identity of their clients either before or during the time that they start doing business with them.

Banks and companies of all sizes have become big supporters of KYC. It is increasingly common for banking institutions, credit companies and insurance agencies to require that their customers provide them with detailed information in order to ensure that they are not involved with corruption, bribery or money laundering.



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## **The Beginning of the sharing procedure of your personal data-**

Many financial institutions begin their KYC procedures by simply collecting basic data and information about their customers, ideally using electronic identity verification. Pieces of information such as names, Citizenship Number, birthdays, and addresses can be very useful when determining whether or not an individual is involved in a financial crime.

Once this basic data is collected, banks generally compare it to lists of individuals that are known for corruption, on a list of sanctions, suspected of being involved with a crime, or at a high risk of partaking in bribery or money laundering.

From there, the bank then quantifies how much of a risk their client appears to be and how likely they are to become involved in corrupt or illegal activity. Once this calculation has been made, the bank can make a theoretical outline of what that client's account should look like in the near future (mainly through self declaration of Annual Expected Turnover, Expected number and sum of Monthly transaction). Once the expected trajectory of the account is in place, the bank can then consistently monitor the client's account activity and make sure that nothing appears to be out of place or suspicious.

Doing this for one individual also enables financial institutions to compare that client's profile to those of his or her peers. If a bank has two clients that have very similar occupations and backgrounds, and they are known for interacting in their respective field, it is assumed that their accounts will look rather similar.

## **How does the KYC Procedure works in Our Nepalese Financial Institutions ?**

In the context to our Nepalese Banking System, generally, we common people go to our desired bank branch with our citizenship and its copies, photos, water or electricity bill for address proof as a basic KYC for opening a bank account.

The loophole here at the first step (that we have practically seen in our nearest branch!!) is the very liberal approach of the immediate junior level staffs of the banks who, without hesitating for a second, fill up the remaining blanks especially the points like Income expected (simply ticking the lowest limits!!), Introducer, expected number of transaction and limits in the KYC forms which the clients of various diversified backgrounds are unable to fill up, just to grab a prospective customer and business for his /her bank branch.

The Customer is happy with the immediate bank account number he receives and thanks the branch for the fastest service without giving any importance to the data filled up by the bank personnel. Then the transaction begins and banking goes smoothly until a year.

However, the renewal date or whenever bank wishes to publish a circular for KYC Updation, arrives. Then the customer is asked, based upon the Account Statement of the same account he/she opened, regarding the limits and transactions. "Sir, as per your KYC, it was Rs. 10 lakhs annual expected transactions with monthly just 3-4 number of expected transactions, but your account shows transactions amounting to Rs.25-30 lakhs with frequency of 10-12 monthly transactions. Please explain." Then, the customer account gets dormant and is again asked for KYC with new recent Photo!!! And this time with financial records and reports.

## **Why does the Importance and need of KYC arise only at renewal dates in our Financial Institutions ?**

Here arises the main question now, why isn't banking rules and basic KYC guidelines strictly applied at the very beginning and not just at renewal dates???? Why is obtaining businesses and deposits (especially during quarter ends for being shown in quarterly Reports!!!) is very crucial????

"One person, one bank account" – an idea for increasing banking reach to all people in the country is also being misused and used as a publicity stunt of the banks in

today's so called cut throat competition for banks. Banks are seen hiring temporary staffs (as if they are hiring some part time worker for gardening!!) without adequate background checks and sending them door to door for opening bank accounts along with the targets!!

We, general people too are handing over our privacy to these people at our homes itself without visiting the branch. And the result of it is the fraud that has been in the news since few days- Group of people with around 5-7 sacks filled with KYCs of hundreds of people and lakhs of unauthorized withdrawals due to such data theft.

We, general customers, need to seriously move forward and start learning to use digital banking methods, get SMS alert services activated (paying Rs. 250 annually is far more better than getting account Nil by hack!!) , get e-banking, mobile banking.

As for the banks, Government is right to force banks to invest in Information Technology- strong, secure, fast, recent and updated so as to prevent huge loss from cyber hacks, ATM hacks (recent Chinese hack). So banks need to seriously consider this matter. Also, the internal control system for the banking software, time lock for login by banking authorities and staffs beyond banking time period needs to be looked into.

### **Isn't it high time for all to consider KYC data protection measures ?**

KYC data protection should be given top most priority more than ever now both in paper and after entering into the system. Protection of both KYC forms and digital records from potential breach. Few months ago, there was news of establishing a central KYC System that shall serve to all places requiring KYC be it banks and financial institutions, broker houses, Government offices.etc. this way the data remains at a single secured platform without compromising the requirement of the other institutions as well as the privacy of the customer.

However, the best way would be the data remains with the owner himself/herself. i.e. Biometrics- the future of

KYC now. With a recent rise in identity fraud, correctly verifying the identity of an individual is critical to increasing security and reducing crimes. Biometrics are seen as new weapons against such crimes. With the use of biometric technologies, organizations such as banks are making KYC (Know Your Customer) procedures for customers even more efficient and easy to use. KYC processes are used by these firms to collect and authenticate the identity of their customers to prove their eligibility to access services.

Biometrics in banking and financial services helps to shorten transaction time for customers. These systems verify customers quickly and accurately within seconds. All we have to do is just touch the fingerprint sensor and the system gets us authenticated within seconds.

### **Can Biometrics be the game changer in Our KYC Management ?**

One of the key driver of using Biometric identification for KYC management is that it inculcates a higher degree of security than manual KYC processes such as passwords, e-mail addresses or PINs which can be hacked using many social engineering techniques and the personal information shared on social media. Forgotten, shared or lost passwords can mitigate security is they come in the hands of fraudsters. The biometric systems also makes customer authentication in branches and other channels less tedious as they need little or no documentation to transact.

Identifying customers by taking fingerprints and capturing webcam photographs notifies branch staff about the identity of the person who has arrived and can readily have that customer's information in front of them. Biometric systems also reduce paper consumption costs and time to maintain documentation as all the information would be electronically stored. This saves staff time and increases process efficiency.

Other branch staffs can use biometrics such as fingerprint or voice recognition to log into a system. This enhances security by preventing the use of shared credentials.

**Our Roles as Data Giver and Data Collector** - So as to conclude, we as a general customer (*data giver*) need to be updated with our banking activities in real time and learn to use digital banking as there is no better option in today's scenario, regularly verify the statements, be careful while sharing our KYC be it at banks, brokers etc. or even at a mobile store for a new SIM card!!

And for banks and other financial institutions/data centers (*data collector*), they need to seriously consider Biometrics, providing digital banking at affordable costs, spreading awareness regarding digital banking while opening bank accounts, adopting strong, secured and updated banking software's so as to prevent future financial disaster through hacks, breach or thefts of data and money.

**सी.पी.ई तालिम सम्बन्धी सूचना !**

आ.व. २०७८/७९ मा संचालन हुने सी.पी.ई तालिमहरु निम्न मिति र स्थानमा भौतिक तथा अनलाईन मार्फत संचालन हुने भएकोले ईच्छुक सदस्य महानुभावहरुले उपयुक्त हुने स्थान र मितिमा सम्बन्धित संस्थसंग सम्पर्क गर्नको लागि यो सूचना प्रकाशित गरिएको छ ।

क्र.सं	मिति	तालिम संचालन हुने स्थान	तालिम संचालन गर्ने संस्था
१	२०७८ फाल्गुण ७	काठमाडौं	ICAN
२	२०७८ फाल्गुण ६, ७ र ८	जनकपुर/वित्तामोड	AuDAN
३	२०७८ फाल्गुण १२, १३, १४ र १५	Virtual	ICAN
४	२०७८ फाल्गुण २७, २८ र २९	काठमाडौं	ICAN
५	२०७८ चैत्र ५ र ६	Virtual	ICAN
६	२०७८ चैत्र ११, १२ र १३	बुटवल/विरगंज/धनगढी	ICAN/AuDAN/AuDAN
७	२०७८ चैत्र २५	वाँके	ACAN
८	२०७८ चैत्र १८, १९ र २०	महेन्द्रनगर/पोखरा/दाङ्ग	ICAN/AuDAN/ICAN
९	२०७९ वैशाख १२, १३ र १४	विराटनगर/चितवन	AuDAN/AuDAN
१०	२०७९ वैशाख १६	कैलाली	ACAN
११	२०७९ वैशाख २०, २१ र २२	नेपालगंज	ICAN
१२	२०७९ वैशाख २७, २८, २९ र ३०	Virtual	ICAN
१३	२०७९ जेठ ६ देखि १५	Virtual	AuDAN
१४	२०७९ जेठ २०, २१ र २२	काठमाडौं	ICAN
१५	२०७९ जेठ २३ गते	काठमाडौं	ACAN
१६	२०७९ जेठ २२ देखि ३१ सम्म	Virtual	AuDAN
१७	२०७९ आषाढ ४, ५ र ६	Virtual	ICAN
१८	२०७९ आषाढ १० गते	वनेपा	ACAN
१९	२०७९ आषाढ १० देखि १९	Virtual	AuDAN
२०	२०७९ आषाढ २४ र २५	Virtual	ICAN

**विस्तृत जानकारीको लागि सम्पर्क:**

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पुनश्च: प्राविधिक कारणले उपरोक्त समय तालिका तथा कार्यक्रम प्रकृतिमा हेरफेर हुन सक्ने छ । हेरफेर भएको अवस्थामा सूचना मार्फत जानकारी गराईने छ ।



# A Comparison of Nepalese and Indian Corporate Law and its Enforcement

*A robust corporate law and its enforcement can be directly tied to the economic development of a nation. Nations having sound and healthy system of corporate laws have moved far ahead in terms of economic development as compared to Nepal where we are still pushing piles of paperwork for corporate matters and that too in Nepali language only.*



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## Introduction

Corporate law refers to the body of law in any nation incorporated in order to license, govern, and regulate the body corporate from their inception to the liquidation. The word corporation means a legal entity which is separate from its owners i.e. corporations have an identity which is separate from its owners. Hence, corporate laws generally revolve around the life cycle of the corporations. The history of modern corporate law dates back to the England when it passed Joint Stock Companies Act, 1844 and Limited

Liability Act, 1855 in 19<sup>th</sup> century. Corporate law, in any nation, is enacted to streamline the process of incorporating companies, regulating them, and liquidating them. Level of corporate governance can also be postulated on the basis of provisions contained in the corporate law.

## Why Corporate Law is Important for a Nation ?

A robust corporate law and its enforcement can be directly tied to the economic development of a nation. Nations having sound and healthy system of corporate laws have moved far ahead in terms of

economic development as compared to Nepal where we are still pushing piles of paperwork for corporate matters and that too in Nepali language only. We can deduce few points on why it is vital for a nation to have a robust corporate law with a healthy system of enforcement:

- Ease of doing business:

Any nation, where there is sound and robust ecosystem of corporate law is considered to be favorable for doing business. When the legal processes of forming a corporation, operating and dissolving it are cumbersome, businessperson chose not to enter such nation to avoid hassle. In a country like Nepal, where physical paperwork are still prevalent with Nepali as the official language, foreigners are not get fascinated by the idea of incorporating corporation instead our neighbor India has been getting affluent of foreign investment (The World Bank, 2022).

- Fair Competition

The aim of corporate law is to promote healthy and fair competition among the business participants in a market. It also ensures the provision of safety in case of breach of various business related contracts.

- Uniformity

In the absence of corporate law, there is no uniform regulation or rules governing various issues related to the business. Hence, corporate law provides uniformity in business dealings.

- Reliability

The reliability of any person entering into a contract with a business entity increases when there are robust corporate laws in enforcement. In a democratic nation, the faith we put on other person is not due the fact that the person is honest but due to the faith on the judiciary system of the nation.

### Basic Comparison of Nepalese and Indian Corporate Law

Purpose of this article is to shed light on some of the difference on various provisions of The Companies Act, 2063 (2006) of Nepal and The Companies Act, 2013 of India along with various distinctions between the enforcement of those acts in respective countries. A tabular presentation is always better when it comes to gaining an understanding of the direct comparison of various matters:

S. No.	Particulars	The Companies Act, 2063 (2006) (Nepal)	The Companies Act, 2013 (India)	Remarks
1	Directors	<u>Private Company</u> Minimum as specified by the AOA of the company Maximum 11 directors <u>Public Company</u> Minimum 3 directors Maximum 11 directors	<u>Private Company</u> Minimum 2 directors Maximum 15 directors <u>Public Company</u> Minimum 3 directors Maximum 15 directors <i>Company may appoint more than 15 directors by passing a special resolution</i>	In Nepal, private company has power to control the board even by a single director only leading to autocracy, and oppression to small shareholders, if any.
2	Maximum number of directorship	No such provision	20 companies (both private and public) but, number of public company shall not exceed 10.	A director can hold the position of directorship in any number of companies, and it might deteriorate the decision making capacity of the director while getting involved in large number of companies.

3	Members/ Promoters	<p><u>Private Company</u> Minimum 2 and maximum 101 members (excluding employee shareholders holding shares under ESOP)</p> <p><u>Public Company</u> At least 7 promoters and there is no limit on maximum number of members</p>	<p><u>Private Company</u> Minimum 2 and maximum 200 members</p> <p><u>Public Company</u> At least 7 promoters and there is no limit on maximum number of members</p>	Private companies in India have flexibility to add more members without being converted into the public company.
4	Directors Identification Number	No such provision	Every director must have obtained DIN.	It is easier to identify where a particular director holds the position of director in other companies, and her/his association.
5	Paid up Capital	<p><u>Public company</u> Minimum Rs. 1 Crore</p> <p>No such requirement for private company.</p>	No minimum capital is required.	<p>It has put a restriction to the people having lower capital to form a public company.</p> <p>It deprives them from increasing the number of members.</p>
6	Personal Liability in case of Fraudulent Prospectus	<p>Directors signing the prospectus shall be held personally liable.</p> <p>Exception: such director has resigned before the decision of publication of prospectus, or has made such information public before the allotment of shares or proving that she/he was unknown that the information mentioned in the prospectus was incorrect or fraudulent.</p> <p>i.e. only civil liability has been mentioned</p>	Both civil and criminal liability shall be instituted as per the case maybe.	Due to lack of institution of criminal liability, probability of getting involved in such fraudulent activity might be higher.
7	Punishment for fraudulently inducing persons to invest money	No such provision	Imprisonment for 6 months to 10 years and fine of amount up to the amount involved in fraud or 3 times of such amount.	There is the probability of inducing the honest person into investing money by fraudsters.
8	Private placement	No such provision	Qualified institutional buyers may subscribe shares through private placement	Companies not falling under the jurisdiction of prevailing securities law in Nepal can't enjoy the benefit of private placement of fund raising in Nepal.

9	Share Issue in Premium	<p>Listed companies may issue share in premium as per the prevailing securities law. Private companies and other public companies may issue shares in premium only if the assets of the company are greater than the liabilities i.e. positive net worth.</p>	<p>No such provision i.e. companies may issue shares in premium.</p>	<p>Companies who have high future potential (technology, know how, and other startups) may issue shares at premium – which is not the case in Nepal where prevailing corporate law has provided some conditions to be fulfilled by private companies to issue shares at premium.</p> <p>Prevailing law in Nepal totally ignores the future potential of a company and relies on book value for imposing condition to issue shares in premium.</p>
10	Buy Back of Shares	<p>A company may buy back its own shares from the reserves subject to the following conditions:</p> <ul style="list-style-type: none"> <li>• All the issued shares are fully paid up,</li> <li>• Shares issued by listed companies are already listed in the stock exchange,</li> <li>• AOA contains provision of buy back,</li> <li>• Special resolution have been passed at the general meeting of the company,</li> <li>• Debt Equity Ratio after buy back shall not exceed 2:1 after buy back,</li> <li>• Maximum buy back shall be restricted up to 20% of the paid up capital and general reserve of the company,</li> <li>• Buy back doesn't contravene any other provision issued by the Office of the Company Registrar.</li> </ul>	<p>A company may buy back its own shares without resolution at general meeting:</p> <ul style="list-style-type: none"> <li>• Up to 10% or less of the paid up capital and free reserve,</li> <li>• Such buyback is authorized by the board resolution</li> </ul> <p>Further, buy back by passing resolution at general meeting:</p> <ul style="list-style-type: none"> <li>• Authorized by article,</li> <li>• Special resolution has been passed at the general meeting,</li> <li>• Maximum buy back shall be restricted up to 25% of the paid up capital and free reserve of the company,</li> <li>• Debt Equity Ratio after buy back shall not exceed 2:1 after buy back (central government has power to provide relaxation in DE Ratio)</li> </ul>	<p>Nepal doesn't provide power to the board of director of the company for the buyback of shares, it might hinder the management's ability to better manage the fund – since, and at the general meeting resolution of buyback may not be passed at all.</p>



11	Issue of Shares in Discount	<p>No company shall issue shares in discount. Exceptions to this provision are:</p> <ul style="list-style-type: none"> <li>• While issuing shares for the restructuring of the company,</li> <li>• While issuing shares to the creditors in lieu of plan of conversion of debt into shares,</li> <li>• While issuing shares to employees under ESOP,</li> <li>• Any other situations as prescribed by OCR.</li> </ul>	<p>There is prohibition on issues of shares at discount except for the issue of sweat equity shares to the employees.</p>	<p>Nepalese law has provided wider scope of issues of shares at discount as compared to the Indian law.</p>
12	Relief in case of Oppression	<p>Any shareholder of the company may sue before the court, if any act is being carried out or going to be carried out in a manner detrimental to the interest of the shareholder.</p>	<p>If the affairs of the company are being conducted in a manner prejudice to public interest or member of the company or the interest of the company, any member of the company may apply to the Tribunal for relief.</p> <p>Following member may apply for the relief:</p> <ul style="list-style-type: none"> <li>• In case of company having share capital, not less than 100 members or not less than members holding 1/10<sup>th</sup> of issued share capital of the company,</li> <li>• In case of company not having share capital, not less than 1/5<sup>th</sup> of the total number of members.</li> </ul>	<p>Provision contained in Nepalese law may result in unnecessary lawsuits against the company.</p>
13	Applicability of the Act to Foreign Company	<p>Not applicable in Nepal since Act Restricting Investment Abroad, 1964 restricts Nepalese citizen to make investment in abroad.</p>	<p>When 50% or more of the paid up share capital, whether equity or preference or both, of a foreign company is held by one or more citizens of India and one or more company registered in India, whether singly or in aggregate, such company shall comply with the provisions as mentioned herein.</p>	

14	Audit Committee	<ul style="list-style-type: none"> <li>Listed company having paid up capital Rs. 3 Crore or more, and</li> <li>Fully/partially owned government companies</li> <li>Shall constitute an Audit Committee on the convenorship of Independent Director.</li> </ul>	<ul style="list-style-type: none"> <li>Every listed company shall constitute an audit committee,</li> <li>Public company having paid up capital Rs. 10 Crore or more</li> <li>Public company having turnover Rs. 100 Crore or more,</li> <li>Public company having loan o/s Rs. 50 Crore or more</li> <li>Shall constituted an audit committee comprising of at least 3 members with majority being independent directors,</li> </ul>	<p>Audit Committee is formed to ensure transparency in financial reporting function, compliance of applicable laws and regulations, and internal control system of the company. However, the scope of forming an audit committee is narrower as compared to Indian law.</p> <p>Further, majority of the director in audit committee may be non – independent in Nepal, which might raise the question of independence of the committee.</p>
15	Insider Trading	<p>No such provision in Companies Act; however, Securities Act, 2063 (2007) contains the provision of the same with following penal provisions:</p> <ul style="list-style-type: none"> <li>Imprisonment up to 1 years, or</li> <li>Fine up to the amount in controversy, or</li> <li>Both.</li> </ul>	<p>Penal Provision:</p> <ul style="list-style-type: none"> <li>Imprisonment up to 5 years, or</li> <li>Fine from Rs. 25 Lakh to 25 Crore or 3 times the amount of profit made involved whichever is higher, or</li> <li>Both.</li> </ul>	<p>It seems that the Company Act is ignorant about insider trading. Further, the penal provision provided in Securities Act is not rigorous for such a fraudulent activity.</p>
16	Secretariat Audit	No such provision	<p>To be done by a Company Secretary in Practice.</p> <p>Applicable to</p> <ul style="list-style-type: none"> <li>Every listed companies,</li> <li>Every public company having paid up share capital Rs. 50 crore or more,</li> <li>Every public company having turnover Rs. 250 crore or more</li> </ul>	<p>Strong corporate governance and compliance of Companies Act could be ensured due to applicability of secretariat audit.</p>

17	Types of companies	Limited by shares	<ul style="list-style-type: none"> <li>Limited by shares</li> <li>Limited by guarantee</li> <li>Unlimited company</li> </ul>	<p>Lacks variety of company, and doesn't provide options to the person establishing companies.</p> <p>It could have been useful to provide these flavors to the companies; since, not for profit companies doesn't have share capital and they could have been backed up the guarantee of their members. If members have certain liability at the time of winding up of non for profit company, company may make its operation wider to reach the charitable purposes.</p>
18	Company Registrar	Situated in Kathmandu only	Situated in various states and jurisdiction	It will provide ease to the customers or the general public for receiving the service. At present, there is no other option but visit the office at Kathmandu for matters related to the companies.

### Basic Comparison of OCR and MCA

S. No.	Particulars	Website of OCR and Procedures	Website of MCA and Procedures	Analysis
1	Official Language	Nepalese	Hindi and English	<p>In the era of globalization, not including English as a working level language is a hurdle for attracting foreign investment.</p> <p>Though website is available in English language, various notices, and documents are only available in Nepalese language.</p>
2	Display of list of companies by using DIN	No such menu	If one searches the DIN of a director, website lists down the companies where such director holds the position of director.	It provides the transparency, and a potential stakeholder of the company may know about the director and her/his association.

2	Company information from registration number	No such menu	If one searches the company in the website, it displays the basic details such as: <ul style="list-style-type: none"> <li>• Authorized capital,</li> <li>• Paid up capital,</li> <li>• Directors,</li> <li>• Address,</li> <li>• Email address,</li> <li>• Date of registration,</li> <li>• Date of last AGM, balance sheet, and annual filing</li> <li>• Charges created, if any</li> </ul>	It provides transparency. Any stakeholder entering into a deal with the company may know all the basic information from the MCA website.
3	Link of the Auditing Body of the nation	No such link has been provided in the website	Link of ICAI has been provided in the website	It shows that company registrar's office is not aware about the ICAN (auditing body of companies registered in Nepal).
4	Dead link	Various dead link or inactive links can be found in the website as on 18/04/2022. Such as: about us page has not opened, there are no files under company operation related monitoring system tab, N/A has been appearing on the live company data of Nepal, organization structure tab is dead end,	No such links are found therein.	It shows that the office of company registrar doesn't committed towards transparency and strengthening IT.
5	Other Information	Lacks information such as organizational structure, annual report, accounting standards, auditing standards, and other information important to a company in the website.	Website is neatly designed and created with holistic information and data pertaining to a company. It contains links to every website that a company may need while operating business in India.	It shows customer oriented approach of government service delivery, and OCR lacks the same.

## Good Corporate Law and It's Enforcement

India ranks 85<sup>th</sup> with score of 40 and Nepal 117<sup>th</sup> with score of 33 globally in corruption perception index (CPI) (Transparency International, 2022). Even though India doesn't have significantly lower corruption rate as compared to Nepal – it still have better system in place. It's amazing how the world's largest democracy with population of 1.4 billion people has managed the entire bureaucratic system. In contrast Nepal has population 30 million only and still the bureaucratic system is havoc (Wordometer, 2022). Similarly, flow of FDI in India in the 21<sup>st</sup> century stood at \$590.69 Billion in contrast to \$1.18 Billion in Nepal. As per the data of 2020, GDP of India is 79 times greater than that of Nepal in contrast to the flow of FDI which is 500 times greater than Nepal (The World Bank Data, 2022). Apparently, it seems that Indian enforcement system is much more robust as compared to Nepal. Rank of India and Nepal – as per CPI and flow of FDI – reflect on why Nepal is way behind in transparency and development. The level of economic growth



and development that every Nepalese dream of cannot be achieved with the *status quo*.

Transparency and accountability are major explanatory factors for the promotion of good corporate governance along with the discipline in practice (Sigdel & Koirala, 2015). Good corporate governance means that the shareholder must earn profit in order to sustain and for the growth of the business, however, in transparent and accountable manner. Four pillars of good corporate governance are: accountability, independence, fairness, and transparency (Risal, 2019). Corporate governance practice is still in infant stage in Nepal as compared to other developed nation (Risal, 2019). The lawmakers of Nepal have to immediately acknowledge the necessity of improving the corporate governance of Nepali companies and find ways to amend it in such a way that it compares well with international ones (Risal, 2019). In India, several committees (N R Narayan Murthy Committee, Naresh Chandra Committee etc.) for the review and reform of the level of good corporate governance have been formed; the suggestion of such committees has also been implemented by the regulators. India still has issues when it comes to the good corporate governance practice – it is an ongoing process, and India is on the path towards achieving the same. Good corporate governance rating done by agencies like CRISIL (in India) have increased faith of the public over the governance practice due to their independent evaluation. However, in Nepal there is no such independent evaluation of corporate governance and the enforcement of existing legal provision are not much stringent. Further, Business Responsibility Rating (BRR) is another tool to capture non – financial aspects of the company like environmental, social, and economic factors. It could increase the accountability and transparency of corporate in Nepal.

### **Room for Improvement in Nepalese Corporate Law**

The level of good corporate governance practice is still in developing stage in Nepal; however, there is much room for improvement – as in stringent law formulation as

well as its strict enforcement by the regulatory authority. Let's capture few practices of good corporate governance which can be implemented in Nepal which are already in place in India:

- Audit Committee:

In Nepal, only listed companies having paid up capital NPR 3 Crore or more, and government/semi – government companies shall have to constitute the audit committee – in contrast, in India, following companies need to form the same:

- Every listed company shall constitute an audit committee,
- Public company having paid up capital Rs. 10 Crore or more
- Public company having turnover Rs. 100 Crore or more,
- Public company having loan o/s Rs. 50 Crore or more, shall constitute an audit committee comprising of at least 3 members with majority being independent directors,

- Maximum No. of Directorship:

There is no such limit of maximum number of position of director that a person can hold in various companies. However, in India, a person can become director in maximum 20 companies (both private and public) but, number of public company shall not exceed 10. This provision shall also be incorporated in Nepal; since, director is the governing authority of a company. A natural person has limitation on how much one could achieve; hence, putting ceiling on directorship would create such limitation in Nepal leading to the good governance practice.

- Director Identification Number (DIN):

It is mandatory for a person to obtain DIN in order to become a director in any company in India. Similar provision shall be incorporated in Nepal as it will increase the transparency, and any person entering into business with any company might obtain basic information about such company and its directors by searching DIN.

- Liability in Case of Fraudulent Prospectus

Both civil and criminal liability shall be instituted, as per the case maybe, in India for fraudulent prospectus. However, only civil liability is instituted in Nepal. If criminal liability is included in the Act, it would be more stringent and risk of fraudulent prospectus would not arise.

- Imprisonment for 6 months to 10 years and fine of amount up to the amount involved in fraud or 3 times of such amount shall be imposed upon a person engaged in fraudulently inducing persons to invest money in the company.
- The practice of composing the board of director by the director having professional expertise, qualification, and experience instead of having ownership stake in the company would increase the corporate governance practice, and it would ensure board oversight.
- OCR shall maintain the database of independent directors, so that the companies may choose directors from the pool of independent directors. India has been maintaining such database for the ease of companies.
- In India, prescribed companies shall have to conduct independent Secretariat Audit as well, and there is no such provision in Nepal. Secretariat audit will increase the faith that the prevailing corporate laws and regulatory requirements are complied with.
- OCR shall extend its branches at least in every province so that the hassle related to corporate administrative work would be reduced, and investor would receive speedy service.
- Last but not least, OCR might increase the flow of information in its website. Further, information about companies, directors, and other related information shall be made public as MCA has been practicing in India.

## Conclusion

The major question is, if we don't know who the directors of a company are and we've no mechanism to verify whether the counterparty is being honest or not – it's a

very insecure environment to conduct business. Further, we have no mechanism in place to know whether we are dealing with a law abiding company or not, and we've no idea in how many company a particular person holds the position of the director. These issues make the corporate environment insecure and traditional in the era of information communication technology where people seek elaborate information quickly while doing business.

Law makers must be aware of various facets while developing a law, and look into the global practice if we are to attract global companies to operate here in Nepal. Similarly, corporate law enforcer of Nepal the Office of the Company Registrar must look into these issues sooner the better. Since, we're in the period where our youngster dominates the population and it's time to focus on nation building. If government and the system doesn't provide assistance for the same, who will?

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# Contribution of Tourism Industry to Nepalese Economy: An Analysis

*The corona virus (COVID-19) pandemic has triggered an unprecedented crisis in the tourism economy, given the immediate and immense shock to the sector which has affected the entire tourism ecosystem. According to ongoing IMF research on tourism in a post pandemic world, tourism receipts worldwide are not expected to recover to 2019 levels until 2023.*



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## Introduction

In the current context, tourism is one of the major economic activities in many parts of the world with high potentiality of job creation, contributing revenue for both public administrations and local residents and attracting investments and foreign capital. Tourism primarily reflects the economic activity generated by industries such as hotels, travel agents, airlines and another passenger transportation. Tourism has major potentiality to sustain the economic sector increasing GDP of the country via inter-linkage with other economic sectors that impacts various dimensions of sustainable development leading to economic

growth which is also the case of Nepal (Vaiphei, 2005).

The Ministry of Culture, Tourism and Civil Aviation (MoCTCA), Nepal outlines "Tourism as the major contributor to sustainable Nepal economy, having developed as an attractive, safe, exciting and unique destination through conservation and promotion, leading to equitable distribution of tourism benefits and greater harmony in the society". Tourism is one of the areas of comparative advantage to Nepal due to its unique nature and rich cultural heritage. With a long-term vision of developing Nepal as an attractive, scenic and safe destination on the

world map by conserving and promoting its natural, cultural, biological and man-made heritages, the aim is to attract more than 2.5 million tourists and create 898,000 jobs by 2025. The year 2020 was declared as visit Nepal Year (VNY2020) with a target of attracting 2 million tourists. The campaign was, however, postponed due to the outbreak of the coronavirus pandemic globally (MoF, 2020).

### Impact of Tourism on National Economic Growth

From last few decades, there has been a surge in the research related to tourism-growth nexus. The importance of growth and development and its determinants have been studied extensively both in developed and developing countries. Extant literature has recognized tourism as an important determinant of economic growth. The importance of tourism has grown exponentially, courtesy to its manifold advantages in form of employment, foreign exchange, production, household income and government revenues through multiplier effects, improvements in the balance of payments and growth in the number of tourism-promoted government policies that can be truly applied to country like Nepal.

From global perspective, the World Travel & Tourism Council’s (WTTC) research reveals that the tourism sector accounted for 10.4% of global GDP (USD 9,170 billion) and 334 million jobs in 2019 a share which decreased to 54.54% (USD 4,671 billion) in 2020 as a result of the ongoing restrictions to mobility. The travel and tourism sector suffered a loss of almost USD 4.5 trillion to reach USD 4.7 trillion in 2020, with the contribution to GDP dropping by a staggering 49.1% compared to 2019; relative to a 3.7% GDP decline of the global economy in 2020 (WTTC, 2020). Overall, there is a linear growth of tourism share to GDP in the last 10 years and it represents 10% of the world GDP, 30% of services exports, and 1 out of every 10 jobs in the world on an average. Thus, tourism is considered a significant part of the trade-in international services and has become a prominent and growing industry.

Out of 185 countries, the world ranking of Nepal has been depicted as follows reflecting the relative importance of travel and tourism’s total contribution to GDP.

<b>120</b> ABSOLUTE Size in 2017	<b>118</b> RELATIVE SIZE Contribution to GDP in 2017	<b>49</b> GROWTH 2018 forecast	<b>102</b> LONG-TERM GROWTH Forecast 2018-2028
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**Figure 1: Relative Importance of Travel and Tourism’s Total Contribution to GDP in Nepal**

Source: WTTC, 2018

### Tourist Arrivals to Nepal

The latest statistical data provided by MoCTCA indicates a progressive growth rate in the number of tourists’ arrival in Nepal.

**Table: 1: Tourist Arrival to Nepal**

Year	By Air	By Land	From Third Countries	From India	Total		Avg. Length of Stay (Days)
	No.	No.			No.	Growth %	
2010	448,800	154,067	481,969	120,898	602,867	18.20	12.67
2011	545,221	190,994	586,711	149,504	736,215	22.12	13.12
2012	598,258	204,834	637,277	165,815	803,092	9.08	12.16
2013	594,848	202,768	616,642	180,974	797,616	-0.68	12.6
2014	585,981	204,137	654,775	135,343	790,118	-0.94	12.44
2015	407,412	131,558	464,156	74,814	538,970	-31.79	13.16
2016	572,563	180,439	634,753	118,249	753,002	39.71	13.40
2017	760,577	179,641	779,386	160,832	940,218	24.86	12.60
2018	969,287	203,785	978,749	194,323	1,173,072	24.77	12.40
2019	995,884	201,307	943,041	254,150	1,197,191	2.06	12.70
2020	183,130	46,955	189,749	40,336	230,085	-80.78	15.10

Source: Nepal Tourism Statistics, 2020

The democratic revolution of 1951-52 was a boon for Nepalese tourism and people’s liberty. With this liberty, foreigners got an opportunity to visit Nepal. Therefore, tourism in Nepal in its modern form was started only in the fifties after the dawn of democracy resulting on an open door policy for the tourists and visitors from all over the world.

A five decade ago, numbers of tourist visiting Nepal were 9,526 which had increased to 1,197,191. This shows a huge growth in the number of tourist arrivals. During the



last ten years, the overall number of tourists coming to Nepal has been increasing, i.e. almost 95% growth but the year 2015 was deeply impacted by the devastating earthquake. After 2015, there has been a great increase in tourists along with a growth rate at the range of 25-40% and Nepal had seen a record 1,197,191 visitors in 2019 alone which was the highest overall. The year 2020 was also greatly impacted by COVID-19 pandemic.

It is clear that the number of tourists arriving by air is the most (around 75-80 %) compared to that by land. An average 20% of the tourists come from India and the rest from other countries. During 2019, out of the total tourist arrivals, the top 5 countries with the largest number of tourist arrivals were India (21.2%), China (14.2%), USA (7.8%), UK (5.1%) and Sri Lanka (4.7%), respectively which constituted 53% of the total tourist arrivals. In comparison to the corresponding period of the previous year, the number of tourist arrivals from India had increased by 5.6% and China by 1.1%. Likewise, there was no change in the number of tourist arrivals from the USA and the UK but the tourist arrival from Sri Lanka was reduced by 1.2% (MoF, 2020).

### Tourist Arrivals, Foreign Currency Earnings and Contribution to GDP

Studies have discovered that the growth of the tourism sector is directly linked with tourist arrivals, their capacity

of expenditure (i.e. period of stay) and has a positive impact on foreign currency earnings. Foreign exchange earnings from tourism can subsequently be used to import capital goods to produce goods and services leading to economic growth (McKinnon, 1964).

The statistical data provided by NRB shows that the amount of highest total foreign exchange earnings received was NPR.75,374 million in the year 2018/19 whereby 1,197,191 tourists visited Nepal in that year (highest till date). However, it decreased by around 20% in the year 2019/20 earning NPR.60,885 million. Tourism contributed 66.2% of the total value of merchandise exports, 25.1% of total value of exports and non-factor services, 5.4% of total foreign exchange earnings and 2.2% of GDP in 2018/19. Further, contribution in the year 2019/20 was decreased to 56.22 % of the total value of merchandise exports, 23% of the total value of exports and non-factor services, 4.6% of total foreign exchange earnings and 1.5% of

GDP. The foreign exchange earnings drastically declined in the year 2015/16 and 2020/21 as compared to the previous years due to the devastating earthquake and the COVID-19 pandemic respectively, depicted through the following chart.

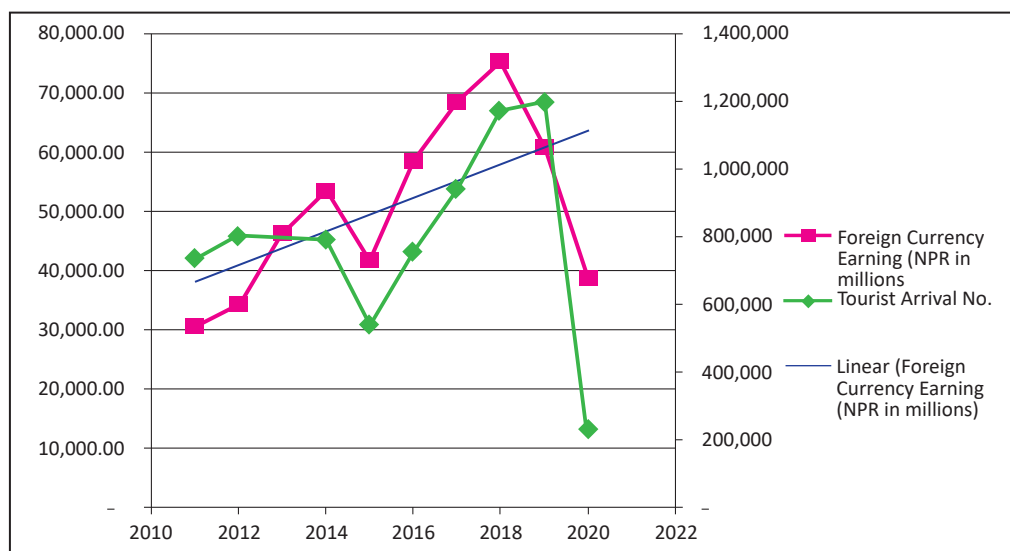


Figure 2: Foreign Currency Earnings versus Tourist Arrival

The above chart shows a positive relationship between the tourist arrivals and total foreign currency earnings subject to expenditure pattern and their period of stay. It can be observed that foreign currency earnings are in increasing trend (i.e. linear growth except in the year 2015 and 2020). However, in last ten years, the average foreign currency earnings contributed around 2% only to GDP of the country.

### Tourism Multiplier Effects and GDP

Tourism plays an important role in the economy by the multiplier effect (by encouraging other economic activities). According to WTTC (2020), the total contribution of travel and tourism to GDP in Nepal was NPR. 247.5 billion (USD 2,089 million), 6.7% of the GDP in 2019 whereas the total contribution of travel and tourism to GDP was NPR.132.1 billion (USD 1,114.7 million), 3.6 % of the GDP in 2020 only due to the impact of COVID-19.

The WTTC’s report shows that in 2019, travel & tourism directly supported 1,042,100 jobs (6.9% of total

employment) in Nepal which was reduced to 835,100 jobs (5.5% of total employment) in 2020 due to the pandemic. The star-hotels, non-star hotels and accommodation capacity increased significantly i.e. by more than 55% (for hotels) and 48% (for accommodation capacity) in the last ten years. As of 2021, total number of star hotels and tourist standard hotels reached to 142 and 1171 respectively and the number of beds reached to 45,850.

There was remarkable growth in the number of travel agencies in FY 2017/18 i.e. around 20% growth comparative to previous FY. Though the number decreased to the succeeding FY 2018/19, there is a growth rate of 5% in FY 2019/20. In the last 5 years, the number of trekking guides and trekking agencies has increased by more than 65% and 45% respectively. The country has received USD 1,041,985 as royalty from Peak in the year 2019. So, tourism service providers of Nepal are increasing year-by-year which is a good indication for future development of the tourism sector. In the last ten years, the total tourism revenue is shown in the chart.

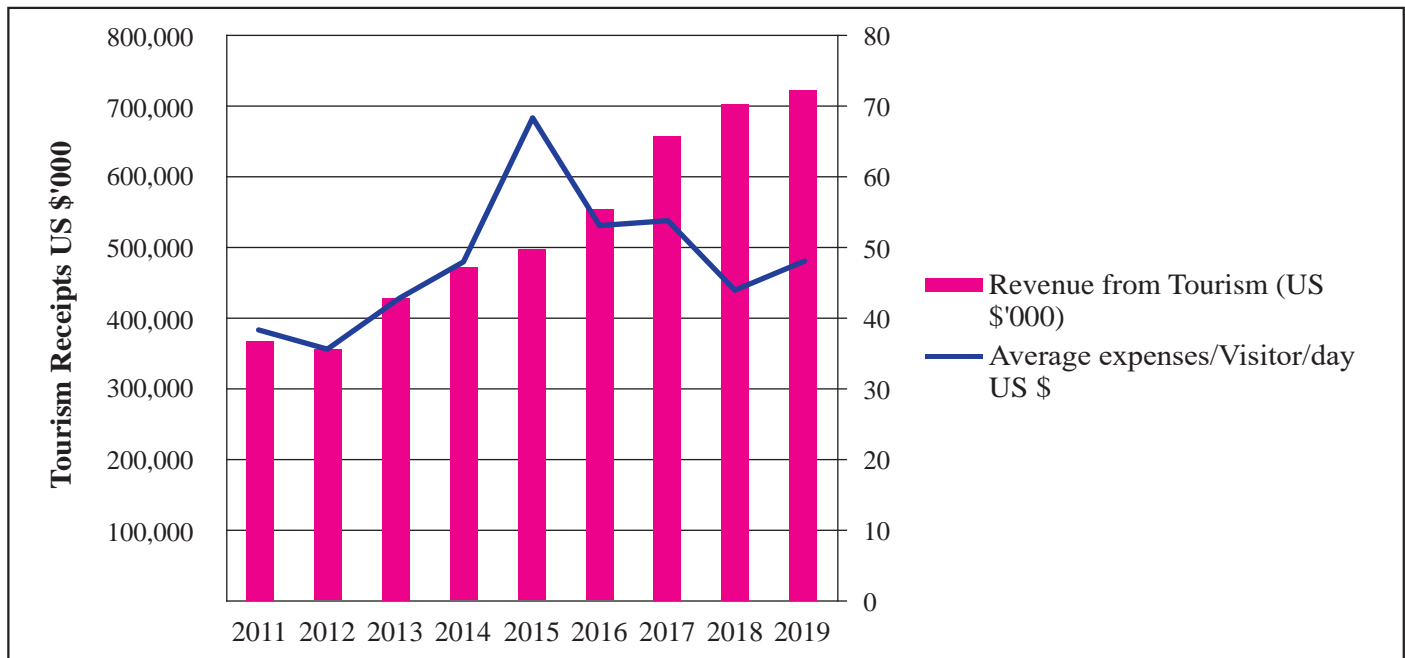


Figure 3: Tourism Receipts and Average Expenses per day

The chart shows that the total revenue from tourism is increasing and it depends on spending habit of the tourists. In Nepal, it remains constant though tourism revenue is increased which indicates that Nepal is only able to attract same type of tourists from last three years. Besides these contributions, tourism receipts today are viewed as major contributor in maintaining the balance of payments in developing countries such as Nepal.

### Key Challenges & Way Forward

The corona virus (COVID-19) pandemic has triggered an unprecedented crisis in the tourism economy, given the immediate and immense shock to the sector which has affected the entire tourism ecosystem. According to ongoing IMF research on tourism in a post-pandemic world, Tourism receipts worldwide are not expected to recover to 2019 levels until 2023.

The case studies of India, Kenya, and Nigeria demonstrated several conditions for the development of tourism sector

- relative peace and a degree of economic development are preconditions for a successful tourist industry.
- Although it has the capacity to help promote peace and prosperity, tourism can also cause a great deal of harm unless it is carefully developed.
- To deliver optimal benefits, tourism must be respectful of the environment and mindful of cultural and social traditions.
- Tourism must be supported by a coherent national strategy and robust laws.

Shultz et al. (2015 ) noted that proper holistic planning and implementation of actions; development of new attractions, products and services; local public private partnerships; investments in basic infrastructure and tourism specific infrastructure; identifying and developing target markets; market intelligence; quality management; easier access to finance for tourism establishments; hospitality and services-related education and so on, all are vital to the well-being of the tourism industry.

It is well known that Nepal has huge potential aspects for the development of tourism industry that need to

be explored for further growth. The various study and research revealed global uncertainty, branding issues, human resources, financial viability, customer issues, operating cost creep, supply, safety, and security, as well as distribution channel management, are the major challenges and issues which are affecting the viability of the tourism industry in worldwide. In the context of Nepal, it is felt that there are several factors that are degrading the growth of the industry, such as lack of comprehensive national strategies, gap between government agencies and business house, political instability, inadequate and mismanagement of investment which are the major challenges faced recently besides the impact of Corona virus.

Based on the various studies, following key areas needed to be considered for the overall development of tourism sectors in Nepal:

- Formulation and implementation of effective and eco-friendly policies and guidelines by government agencies that will assist the business house in the tourism industry to grow and further comprehend the need for sustainability. In addition, all stakeholders including airlines, tourist operators and other business house should adopt eco-friendly practices in their business to maintain sustainability in the tourism industry.
- Governments need to establish national tourism strategies based on internationally accepted norms and emphasize implementing the sound principles and best practices of ecotourism rather than fixating on increasing tourism numbers and focus on proper planning with comprehensive policies.
- The key challenges need to be addressed immediately to get optimal benefits from tourism industry which includes the adoption of robust regulatory frameworks, easiness of finance, transparency and clarity in tax laws, mechanisms to maximize in-country foreign currency earnings, and efforts to reduce crime and corruption. This requires the presence of strong and effective institutions at national and local levels

- There is the need for huge capital investment and the creation of new infrastructural facilities is essential for promoting tourism. Government should allocate necessary investment for the same that will assist in the growth of tourism sector leading to overall development of Nepalese economy via value chain effects.
- United States Institute of Peace recommends that the recovery of the tourism industry can only be accelerated by the partnerships between private and public organizations operating in tourism sector. So, the government should address existing bottlenecks and constraints and bridge the gap between stakeholders.
- Boosting competitiveness and build resilience through economic diversification, with promotion of domestic and regional tourism. The promotion of domestic tourism contributes to reactivating the economy even with the absence of the international tourists.
- Implementation of advance innovation and digital transformation of tourism in tourism industry

## Conclusion

Despite huge potentiality and capacity of the country, tourism contribution to the national economies, in terms of employment generation, foreign exchange earnings and national revenue, has remained at minimal. The various challenges linked with the tourism industry in our country must be addressed immediately via drafting short term and long-term framework, along with the engagement of the inputs of stakeholders i.e government agencies, policymakers, and firms in the related sector to build the industry overall sustainable. As tourism has a higher multiplier and positive spillover effect than other economic sectors, development and improvement of infrastructure, capital investment, information, facilities, friendly environment, access, transportation, safety and security are key factors for tourism development and

to adopt a competitive tourist destination that is most priority to our nation.

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## Learning from Mistakes: Can we afford ?

*The human cultural values that characterize learning organization can be enumerated as everyone can be a source of useful ideas, people closest to the problem have the best ideas to deal with them, learning flow up as well as down the hierarchy, new ideas are important and worth rewarding, mistakes should be viewed as learning opportunities.*



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### Introduction

Learning is a noble process of improving and adding value in life. Learning goes life-long as we can learn something from all instances of life experience and the turns of time. John C Maxwell has famously said, wise men learn more from fools than fools from the wise. “Learning from mistakes” is a common aphorism in personal as well as organizational lives. Here in this paper, I like to begin with the concepts of learning, proceed to the link of learning and mistakes, and the costs of admitting mistakes in the pretext of learning before arriving at some conclusive ideas from the

discussion as well as substantiation of different ideas/discourses laid out by previous thinkers and writers on the subject.

### Learning and Mistakes

Learning is regarded as one of the finest virtues of human life. People modify the behavior and the way of doing things from the inspirations of their practice and experience. When one has changed the style of speaking or writing through practice, we say he/she has learned to speak or write. This could logically mean that the person now speaks or writes in a different (presumably better) way from that in the beginning. Through experience, one acknowledges the

imperfections and inefficiencies of his action, conduct or behavior and consciously starts to adopt a better way of doing the same things overcoming those shortfalls in performance. One can become aware of the mistakes or harms that led to suboptimal consequences and avoid them by changing the style. So it is well accepted that by mistakes one learns and improves. This idea is further pulled forward to the extent that mistakes are the ways of learning. Mistakes should be admitted, acknowledged and consciously avoided considering them as the inputs in the righteous process of learning. One who is scared of making any mistakes cannot learn. Coming to the context of organizations, it is said that a boss who tolerates no mistakes and frowns upon each and every lapse or deviation can never develop his people. Such a rigid and uncompromising stance in management becomes the toughest detriment in creating a learning climate and the executive development of employees.

### **Learning Organization and the Connection of Mistakes**

In the contemporary realm of management, there is a vehement advocacy of learning culture and learning organizations. The concept of building learning organization was evolved and flourished in 1990s as an intervention tool for facilitating the adaptation to change, a part of Organizational Development (OD) technique. Peter Senge in his famous book *The Fifth Discipline* elaborated the newly coined terminology introducing his five disciplines - Systems Thinking, Personal mastery, Mental models, Building shared vision and Team learning - as the cornerstones of learning organization. In establishing the idea of Personal Mastery, he asserts that individual learning is the essence of organizational learning. Though individual learning does not guarantee organizational learning, without it no organizational learning occurs. Without a culture, climate and encouraging environment for learning the adaptation with changes in technology, methods, processes and risks becomes difficult. So learning is one the valuable virtue on which today's organizations stand.

People are most important of all resources and hence a way to develop people is the creation of learning organization. Organizations today need to boost a climate of learning. Jack Welch, former Chairman and CEO of General Electric, regards the ability to learn and translate that learning into action as the ultimate source of competitive advantage.

The human cultural values that characterize learning organization can be enumerated as everyone can be a source of useful ideas, people closest to the problem have the best ideas to deal with them, learning flow up as well as down the hierarchy, new ideas are important and worth rewarding, mistakes should be viewed as learning opportunities. It follows that there should be an openness to new ideas, opportunity of exchange and refinement of ideas, no fear of being belittled in asking naive questions.

### **The Cost of Mistakes**

In discussing the mistakes and costs of mistakes, here we are not talking about the intentional frauds and misappropriations. Here it is necessary to bear in mind that frauds are different from mistakes though consequences of the both could be similar. In fraud there comes the role of bad intention. Fraud is an act that is intentionally carried out to benefit certain individuals or groups and causes detrimental effect to others. Mistakes on the other hand refer to the acts of unintentional errors caused by lack of knowledge, experience or could also be with negligence.

Let's now explore the idea of learning by mistakes a bit more critically. The ploy of "learning" sounds a humble and modest excuse for the mistakes and things gone wrong way. A school child can simply realize the mistake he made in doing an arithmetic problem and correct it in the next attempt getting it right. Through practices and mistakes repeated and subsequently corrected, he can be well aware of the right way of getting to the solutions and in common understanding, improve his mathematics. A carpenter can make some mistakes in his beginning days and produce poorer quality items and subsequently

through practice, learn to make good ones over time. An accountant can make some wrong calculations or entries in his work and resolve the discrepancies later with hard efforts and cumbersome reworks. Such mistakes could be alright and excusable in the sense of learning and developing. It is said that learning is a lifelong process and everyone is in the process of learning and adding value to his/her treasure of knowledge, wisdom and expertise.

Though mistakes are common and natural, they do have some costs. The costs could be in terms of time and resources wasted, moral energy lost, wrong impression gone to the customer in the form of inferior quality of goods or services. If a doctor mistakenly recommends wrong prescription, the cost of his “learning” could be little to him but grave and enormous on the part of the patient. If a driver of public vehicle makes a mistake, the subsequent accident can cost lives of many people sometimes including the driver himself. If the people in key managerial positions mistakenly bring wrong incentive plans or rules, the mistakes could invite quite complicated situations in the organization. If people in political positions mistakenly enact inappropriate rules, resolutions and policies the costs to the nation could be irreparable. So, mistakes need to be judged against the costs associated and the gravity of the consequences before admitting them generously as the inputs to successful learning.

Weaver (2011) recalls an experience of mistaken class assignment from the days he was in a pharmacy school. A simple looking mistake in a mathematical calculation in a class assignment was that time a quite humiliating experience to him as a student. The embarrassing “double zero” marks for such a simple calculation mistake was in his young mind, an unfair insult and hurt to his fervor. But later, in his professional career he came to realize what such a simple mistake and incorrect medical prescriptions based on the same could cost in the real working context. He finally comes to a conclusion that the cost of mistakes though small to those who commit, can be overwhelming

to others and hence the eventual need is to prevent mistakes and at least, the costly mistakes.

Now the question arises, how to balance the benefits of learning with the costs of mistakes that need to be borne in the excuse of learning? The idea of mistakes as learning opportunities can be logically appropriate when the direct costs of mistakes are small. If costs of mistakes are bigger, the same stance could be difficult to stick on. Can we afford to make such mistakes for the sake of learning? Can an organization afford to allow such mistakes by its people? Can a cogent management sit calmly and discuss the involved employees on how the wrong-handling caused machine breakdown (once it has actually happened) and hampered the operations? Can a wrong placement of investments due to mistaken analysis and losses thereupon be forgiven in the guise of learning? Can an organization bear loss, pay penalty and lose lawsuits and sit with the involved wrongdoer to discuss the issue for the sake of organizational learning and sharing? Can the maxim of ‘mistakes as the opportunity of learning’ be generously assumed turning a deaf ear to the pecuniary as well as non-pecuniary losses to the organization? Does it make sense that more mistakes mean more learning? Would it be wise to admit more mistakes simply as more attempts to learning? Or, should there be set a limit on what level of costs of mistakes be admitted as the costs of learning attempts ?

### **Learning from the Mistakes of Others**

Pondering from the cost perspective, can there be some less costly alternatives for learning and development? Can’t we learn without making mistakes or at least, without making many and costly mistakes? Do we need to make mistakes and bear losses for an effective learning? Can’t we learn from the mistakes of others? Can’t we better learn from the historical analogies? How about learning from the analysis of past mistakes, exploration of hidden links of causes and consequences, counterfactual analysis and extrapolations instead of mistakes? The statement of Eleanor Roosevelt, American first lady of President FD

Roosevelt “Learn from the mistake of others; you can’t live long enough to make them all yourself” appears to hold a relevance in the context of organization and management too.

### **Mistakes: No Easy Tools of Learning**

Mistakes are from one perspective the tools of learning. If properly taken for review, reflection and analysis they can be useful to boost a critical thinking. But the idea as it could be meaningful in pedagogical point of view, the same does not simply hold in the context work. The track record of making mistakes, causing losses, admitting them and improving next time does not constitute a good history in one’s executive career. Kevin Ann (2019) says, even if we are fully aware of the utility of mistakes and failures and fully embrace them or actively seek them out as a useful process of improvement, we still run into a big problem. That problem means not having access to enough trials to make enough mistakes or fail enough. So, wisdom lies in taking lessons from other people’s mistakes and benefit from the experience of others. If it is wise to learn from own mistakes, it is wiser to learn from other people’s mistakes and not facing the agony or embarrassment of making mistakes of own. Though mistakes are called stepping stones to learning and success they are in reality no fun to be through.

### **Final Remarks / Takeaways**

Coming to the end of the discussion, some useful ideas may be drawn. Learning is a matter of attitude, culture and a mindset of changing the behavior than just a technical process of obtaining knowledge or working know-how. When we say learning from mistakes, the focus is not on making mistakes or admitting mistakes or forgiving the wrongdoers; rather the emphasis is on the realization of the gravity of the mistakes, lapses, deviations and building an inspiration for revising the approach and commitment for due awareness not to repeat the same or similar mistakes next time.

Though mistakes give learning, the idea is by no means, not about making more mistakes for more learning; rather it is about learning more with fewer mistakes. An organization can work out some tolerance limits on what extent of costs may be accepted to allow for learning by mistakes. Trivial and less costly mistakes may be forgiven on the grounds of genuine efforts and unintentional lapses. In this connection, some appropriate indicators and measure can be developed to identify repetitive mistakes, negligence and the behaviors suspicious of fraud. People shall be given opportunity to sincerely think, try, discover, communicate and put into application better techniques and methods while at the same time, organizations need some measures to put a check on the costly mistakes and losses.

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# NFRS 16 Leases: Context, Example, Entries and Presentation- Lessee's Perspective

*Lessors shall classify each lease as an operating lease or a finance lease. A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership of an underlying asset. Otherwise a lease is classified as an operating lease. Thus, accounting treatment is same for lessors under NFRS 16 as compared to NAS 17.*



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## Context

Suppose, B Ltd financed a delivery truck costing Rs. 3.5 million entirely from a Bank. The loan tenure is 10 years and interest rate is 12% per annum payable in EMI basis. The equated monthly installments (EMI) will be Rs. 50,125 and total amount payable to the Bank in 10 years period will be Rs. 6.02 million. The truck will be used by the Company and all the economic benefits from the use of the truck will be passed on to the company. In addition, the company has sole discretion to dictate the use of the truck. In this

example, the company will account the delivery truck as an asset for Rs. 3.5 million and commence depreciating it over its useful life. In addition, the company will account liability of Rs. 3.5 million and commence paying EMI. The EMI amount will constitute the portion of interest accrual and rest repayment of principal. The repaid principal will reduce the liability gradually to nil value over the loan tenure. Therefore, the Company will book depreciation expense in the assets side and account for interest paid to the Bank in liability side.

However, if company uses the same delivery truck (having economic life of 20 years) in a lease term for 10 years from M Ltd then the company shall recognize the lease agreement as operating lease under NAS 17 and the annual lease payment say Rs. 600,000/- per annum shall be accounted for as lease expenses each year. Although, the company obtains all the economic benefit from the truck for 10 years and has right to direct the use of that truck over the lease term, it shall neither account any type of assets nor liabilities. The company understates its assets and liabilities in the second case for similar benefits and exercise of similar rights. Also, it accounts for lease expense instead of depreciation and interest expense charging different value in profit or loss account.

The accounting rules set out in NAS 17: Leases focused the lease which was classified as a finance lease and reported on the lessee's statement of financial position as assets. All other leases were classified as operating leases and were not reported on the lessee's statement of financial position. Operating leases gave lessees the right to use assets and impose obligations on the lessee to pay for this right in the same way as finance leases. The rights and obligations under operating leases also satisfies the definitions of assets and liabilities set out in the conceptual framework but they are not recognized as assets or liabilities in balance sheet. The financial statement of lessee depicts different picture in second case in terms of assets, liabilities, expenses and various financial ratios which may be misleading to the stakeholders of the company.

### NFRS 16 leases

Lessors shall classify each lease as an operating lease or a finance lease. A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership of an underlying asset. Otherwise a lease is classified as an operating lease. Thus, accounting treatment is same for lessors under NFRS 16 as compared to NAS 17.

But there is no longer a classification distinction between operating and finance lease for lessee. Rather, now a

single model approach exists whereby all lessee shall report as finance lease. These leases are capitalized and presented on the statement of financial position as both assets, known as the right-of-use (ROU) asset, and lease liabilities, unless any exemptions are prescribed by the standard. Also, the accounting treatment for finance leases under NFRS 16 results in the recognition of both depreciation and interest expense on the income statement.

### Identifying/Defining a Lease

Under NFRS 16, a lease is defined as a contract conveying an entity the right to utilize a specific asset for a period of time in exchange for consideration. To determine whether a contract grants control of the asset to the lessee, the agreement must provide the following to the lessee:

1. The right to substantially all economic benefits from the use of the identified asset
2. The right to dictate how the identified asset is used by the entity

### Identified Asset

One essential feature of a lease is an 'identified asset'. For the asset to be 'identified' the supplier of the asset must not have the right to substitute the asset for an alternative asset throughout its period of use except when a repair is necessary.

### Exemptions

Concurrently, lessees reporting under NFRS 16 may choose to take advantage of practical expedients that exclude certain types of leases from capitalization. These include:

#### 1. Short-term leases; and

This may include the lease having a lease term of 12 months or less.

#### 2. Leases of low-value assets.

The threshold of low value assets is not defined in NFRS 16 but the value of assets when it is new should be considered as threshold in low-value assets.

Further, when certain types of lease agreements are capitalized under NFRS 16, similar nature of other lease agreements can be capitalized for consistency although, they fall under low-value assets threshold limit.

### Lease Accounting – Lessee’s Perspective

At the commencement date, a lessee shall recognize a right-of-use asset and lease liability.

<b>Balance Sheet</b>	
Assets =	ROU of Underlying Assets
Liabilities =	Present value of future lease payments

<b>Profit or loss</b>	
Depreciation =	As per NAS 16 - Property, Plant and Equipment
Interest Expenses =	Interest accrued at the rate of implicit interest rate or incremental borrowing cost

#### Initial measurement of the right-of-use asset

$$\text{Right-of-Use Asset} = \text{Present value of future Lease Payments} + \text{Initial Indirect Costs} + \text{Prepaid Lease Payments} + \text{Estimated costs of dismantling or restoration} - \text{lease incentives received}$$

$$\text{Lease Liability} = \text{Present value of lease payments (fixed or variable payments)}$$

At the commencement date, a lessee measures the lease liability at the present value of the lease payments using the interest rate implicit in the lease if this can be readily determined.



Figure 1

**For example:** A Limited entered into a lease agreement on 01/01/2019 for renting out a plant for 5 years with a term to pay annual lease payment (at the end of

each year) of Rs. 600,000 for first year and Rs. 20,000 increment every year. The fair value of the plant leased is Rs. 2,500,000. The lease term includes upfront lease payment of Rs. 100,000 and initial direct costs of Rs. 50,000. The implicit interest rate in this case will be as below:

Table 1

Year	Particulars	Rs.
1/1/2019	Fair value of underlying assets	(2,650,000)
12/31/2019	Lease rentals	600,000
12/31/2020	Lease rentals	620,000
12/31/2021	Lease rentals	640,000
12/31/2022	Lease rentals	660,000
12/31/2023	Lease rentals	680,000
<b>Implicit Interest Rate (IRR)</b>		<b>6.49%</b>

The implicit interest rate inherent in the lease is 6.49%. This rate is the internal rate of return generated by the lease cash flows which can be computed by interpolation of two NPV values or directly using in-built function in excel.

If the lessee cannot readily determine the interest rate implicit in the lease, then the lessee uses its incremental borrowing rate. This is the rate that a lessee would have to pay at the commencement date of the lease for a loan of a similar term, and with similar security, to obtain an asset of similar value to the right-of use asset in a similar economic environment.

#### Initial Measurement of lease

<b>On 1/1/2020:</b>		
ROU Asset	Dr.	2,650,000
Lease Liability	Cr.	2,650,000

Right-Of-Use Assets (ROU) Amortization Table using straight line method of depreciation will be as below:

**Table 2**

Date	ROU Asset at cost	Depreciation	Accumulated Depreciation	Net Assets
1/1/2019	2,650,000			2,650,000
12/31/2019	2,650,000	530,000	530,000	2,120,000
12/31/2020	2,650,000	530,000	1,060,000	1,590,000
12/31/2021	2,650,000	530,000	1,590,000	1,060,000
12/31/2022	2,650,000	530,000	2,120,000	530,000
12/31/2023	2,650,000	530,000	2,650,000	-

Lease Liability Amortization Table will be as below:

**Table 3**

Date	Opening Lease Liability	Lease Payment	Interest Expense @ 6.49%	Principal Repayment	Closing Lease Liability
1/1/2019	2,650,000	-			2,650,000
12/31/2019	2,650,000	600,000	171,954	428,046	2,221,954
12/31/2020	2,221,954	620,000	144,179	475,821	1,746,133
12/31/2021	1,746,133	640,000	113,304	526,696	1,219,437
12/31/2022	1,219,437	660,000	79,127	580,873	638,565
12/31/2023	638,565	680,000	41,435	638,565	-

When lease payments are discounted with implicit interest rate, ROU Asset will be equal to Lease Liability. However, if we discount the lease payments with incremental borrowing rates and lease term also includes initial direct cost and advance lease payments then there are chances that ROU assets debited will be higher. In that case such initial direct costs and advance lease payments are credited with Bank/Cash Balance.

#### Subsequent measurement of the lease liability

After initial recognition, a lessee measures the lease liability by:

- increasing the carrying amount to reflect interest on the lease liability,
- reducing the carrying amount to reflect the lease payments made; and
- re-measuring the carrying amount to reflect any reassessment or lease modifications

#### Subsequent measurement of the right-of-use asset

Generally, a lessee measures right-of-use assets at cost less accumulated depreciation and accumulated impairment losses. A lessee depreciates right-of-use assets in accordance with the requirements of NAS 16 Property, Plant and Equipment – i.e., the depreciation method reflects the pattern in which the future economic benefits of the right-of-use asset are consumed. This will usually result in a straight-line depreciation charge. The depreciation period runs to the earlier of the end of the useful life of the right-of-use asset or the end of the lease term.

#### Entries for the Year 2019:

Depreciation	Dr.	530,000	Interest of Lease Liability	Dr.	171,954
Accumulated Depreciation	Cr.	530,000	Lease Liability	Cr.	171,954
Lease Liability	Dr.	600,000			
Bank Account	Cr.	600,000			

**Entries for the Year 2020:**

Depreciation	Dr.	530,000	Interest of Lease Liability	Dr.	144,179
Accumulated Depreciation	Cr.	530,000	Lease Liability	Cr.	144,179
Lease Liability	Dr.	620,000			
Bank Account	Cr.	620,000			

Similar entries shall be performed for year 2021, 2022 and 2023 for depreciation using table 2 and interest expense and settlement of lease liability using table 3.

**On 31/12/2023:****Settlement of accumulated depreciation at the end of lease term**

Accumulated Depreciation	Dr.	2,650,000
ROU Asset	Cr.	2,650,000

**Statement of Financial Position**

Particulars	Initial Recognition	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023
<b>Lease Liability</b>	<b>2,650,000</b>	<b>2,221,954</b>	<b>1,746,133</b>	<b>1,219,437</b>	<b>638,565</b>	<b>-</b>
Short Term		475,821	526,696	580,873	638,565	-
Long Term		1,746,133	1,219,437	638,565	-	-
ROU Asset	2,650,000	2,650,000	2,650,000	2,650,000	2,650,000	2,650,000
Less: Accumulated Depreciation	-	(530,000)	(1,060,000)	(1,590,000)	(2,120,000)	(2,650,000)
<b>Net ROU Asset</b>	<b>2,650,000</b>	<b>2,120,000</b>	<b>1,590,000</b>	<b>1,060,000</b>	<b>530,000</b>	<b>-</b>

**Statement of Profit or loss**

Particulars	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Total
Depreciation	530,000	530,000	530,000	530,000	530,000	<b>2,650,000</b>
Interest Expenses on Lease Liability	171,954	144,179	113,304	79,127	41,435	<b>550,000</b>
<b>Total Expense as per NFRS 16</b>	<b>701,954</b>	<b>674,179</b>	<b>643,304</b>	<b>609,127</b>	<b>571,435</b>	<b>3,200,000</b>
Lease Expense as per NAS 17	640,000	640,000	640,000	640,000	640,000	<b>3,200,000</b>
<b>Difference (NAS 17 &amp; NFRS 16)</b>	<b>61,954</b>	<b>34,179</b>	<b>3,304</b>	<b>(30,873)</b>	<b>(68,565)</b>	<b>-</b>

Lease payments under an operating lease as per NAS 17 shall be recognised as an expense on a straight-line basis over the lease term unless another systematic basis is more representative of the time pattern of the user's benefit. The lease expense under NAS 17 in this example should have been Rs. 640,000 each year {i.e. (600,000+620,000+640,000+660,000+680,000)/5}. The impact in total profit or loss account will be different under NFRS 16 and NAS 17 in year-on-year accounting but the total impact over the lease term will be same i.e. Rs. 3,200,000.



### Transition Provision

The lease commencement date can be earlier to initial application of lease under NFRS 16. Suppose transition date of NFRS 16 is for annual reporting periods beginning on or after 1 January 2021 then the accounting in the books of lessee as per NFRS 16 for leases recognized as operating lease as per NAS 17 in the given example will be as below:

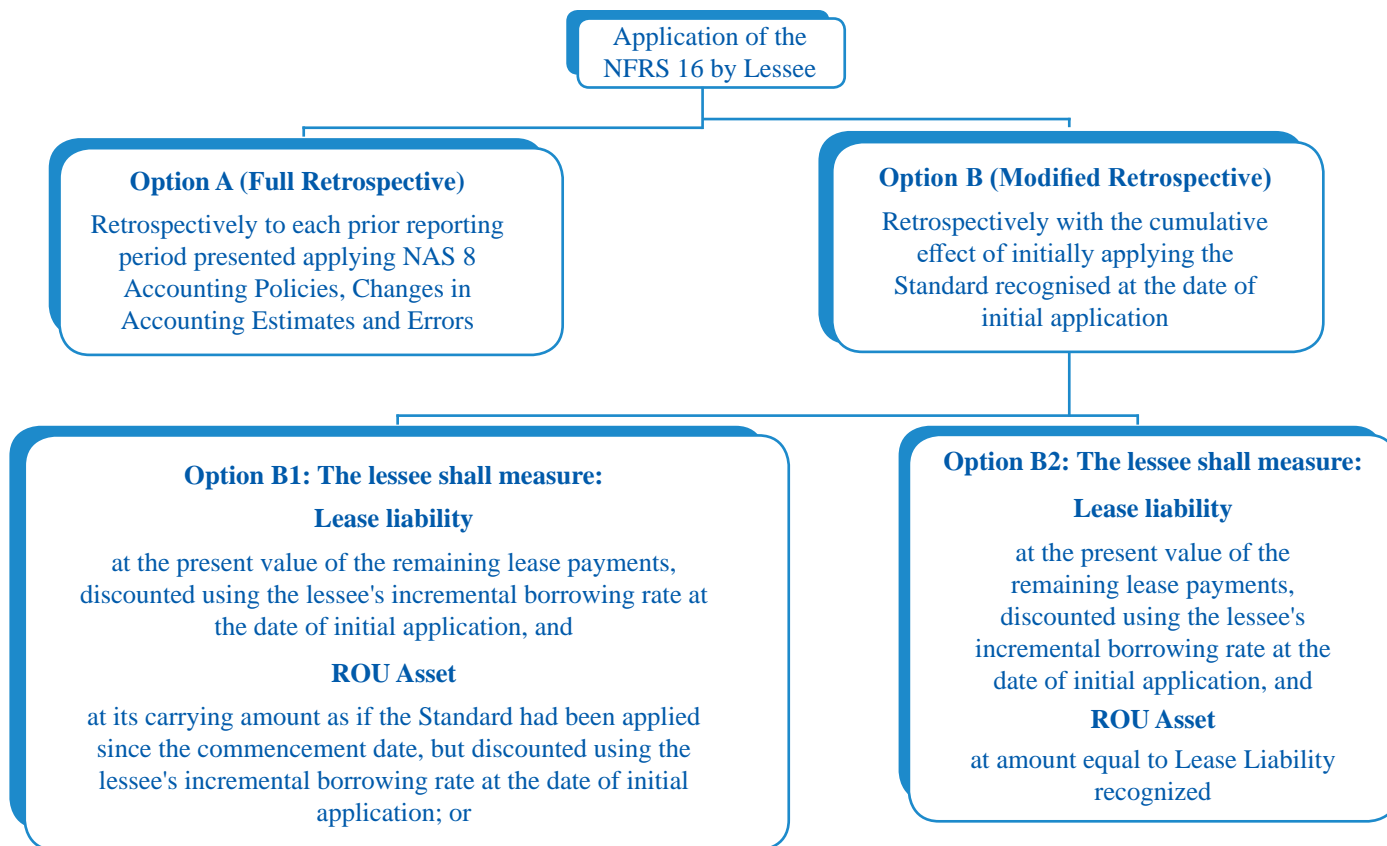


Figure 2

### Option A (Full Retrospective)

#### Entries for Restatement of Opening Balance on 01.01.2020 (from Table 2 and 3):

ROU Assets Dr.	2,650,000		
Retained Earnings	Dr.	61,954	
Lease Liability under NAS 17	Dr.	40,000	[Difference in plunder NAS 17 & NFRS 16 in 2019]
Accumulated Depreciation	Cr.	530,000	[Lease expense under NAS 17 less paid amount]
Lease Liability	Cr.	2,221,954	

The entries under NFRS 16 i.e., interest, depreciation and lease payment will be impacted in financial statement of the year 2020 and entries as per NFRS 16 will be normally performed from the beginning of 2021. The financial statement for the year 2021 will be shown with restated comparative information as below:

## Statement of Financial Position for the Year ended 31.12.2021 (Extract...)

Particulars	31.12.2021	31.12.2020 (Restated)	01.01.2020 (Restated)
<b>Lease Liability</b>	<b>1,219,437</b>	<b>1,746,133</b>	<b>2,221,954</b>
Short Term	580,873	526,696	475,821
Long Term	638,565	1,219,437	1,746,133
<b>Retained Earnings (accumulated effect)</b>	<b>-</b>	<b>(96,133)</b>	<b>(61,954)</b>
ROU Asset	2,650,000	2,650,000	2,650,000
Less: Accumulated Depreciation	(1,590,000)	(1,060,000)	(530,000)
<b>Net ROU Asset</b>	<b>1,060,000</b>	<b>1,590,000</b>	<b>2,120,000</b>

As entries are performed from beginning of 2021, no adjustment to retained earnings will be done in year 2021.

## Statement of Profit or loss (Extract ...)

Particulars	Year 2021	Year 2020 (Restated)
Depreciation	530,000	530,000
Interest Expenses on Lease Liability	144,179	171,954
<b>Total Expense as per NFRS 16</b>	<b>674,179</b>	<b>701,954</b>

## Option B (Modified Retrospective)

Cumulative effect of retrospective application shall be computed and recognized only on the date of initial application i.e. comparatives are neither restated nor presented. The ROU assets under this option can be recognized in two ways but the lease liability will be same in any case and it shall be present value of remaining lease payments. However, remaining lease payments will be discounted with the incremental borrowing rate (IBR) at the date of initial application. If IBR at initial application date is equal to implicit interest rate, then it will not be different from figures presented in table 3. But if IBR at initial application date is different from implicit rate or IBR prevailed at lease commencement date then the resulting ROU and Lease Liability will be calculated with IBR at initial application date.

Suppose IBR is 8% on initial application date, then Lease Liability recognized on 01.01.2021 will be Rs. 1,698,242 as below:

Table 4

Year	Lease Rentals	DF@8%	Present Value
12/31/2021	640,000	0.93	592,593
12/31/2022	660,000	0.86	565,844
12/31/2023	680,000	0.79	539,806
<b>Lease Liability</b>			<b>1,698,242</b>

**ROU Asset recognition:**

ROU Asset under Option B2, Figure 2 will be recognized for an amount equal to Lease Liability recognized i.e. Rs. 1,698,242.

**On 01/01/2021:**

ROU Asset	Dr.	1,698,242	
Lease Liability	Cr.		1,698,242

However, if ROU Asset is recognized under Option B1, Figure 2; it shall be measured at its carrying amount as if NFRS 16 has been applied since commencement of the lease.

**Table 5**

S.N.	Due Date	Rental Payment	DF@8%	Present Value
1	12/31/2019	600,000	0.93	555,556
2	12/31/2020	620,000	0.86	531,550
3	12/31/2021	640,000	0.79	508,053
4	12/31/2022	660,000	0.74	485,120
5	12/31/2023	680,000	0.68	462,797
<b>Present value of lease payment at current IBR</b>				<b>2,543,075</b>
<b>Upfront lease payment + initial direct costs</b>				<b>150,000</b>
<b>ROU Asset at commencement date</b>				<b>2,693,075</b>

The amortization table of ROU Asset will be as below:

**Table 6**

Date	ROU at cost	Depreciation	Accumulated Depreciation	Net Asset
01/01/2019	2,693,075			2,693,075
12/31/2019	2,693,075	538,615	538,615	2,154,460
12/31/2020	2,693,075	538,615	1,077,230	1,615,845
12/31/2021	2,693,075	538,615	1,615,845	1,077,230
12/31/2022	2,693,075	538,615	2,154,460	538,615
12/31/2023	2,693,075	538,615	2,693,075	-

Following entries will be required to restate the opening balance as on 01.01.2021 from Table 6:

**Entries for Restatement of Opening Balance on 01.01.2021:**

ROU Assets	Dr.	2,693,075	[Assets - liabilities recognized - reversal of liability under NAS 17] [Rs. 40,000 in 2019 and Rs. 20,000 in 2020] [Depreciation for 2019 and 2020]
Retained Earnings	Dr.	22,397	
Lease Liability under NAS 17	Dr.	60,000	
Accumulated Depreciation	Cr.	1,077,230	
Lease Liability	Cr.	1,698,242	

Entries (interest accrual, depreciation, and lease payment) as per NFRS 16 will be made from the beginning of year 2021 and financial statement for the year 2021 will be presented as below:

**Statement of Financial Position for the Year ended 31.12.2021 (extract...)**

Particulars	31.12.2021	31.12.2020 (Restated)
<b>Lease Liability</b>	<b>1,194,102</b>	-
Short Term	564,472	-
Long Term	629,630	-
<b>Retained Earnings (accumulated effect)</b>	<b>112,397</b>	-
ROU Asset	2,693,075	-
Less: Accumulated Depreciation	(1,615,845)	-
<b>Net ROU Asset</b>	<b>1,077,230</b>	-

**Statement of Profit or loss (extract ...)**

Particulars	Year 2021	Year 2020 (Restated)
Depreciation	538,615	-
Interest Expenses on Lease Liability	135,859	-
<b>Total Expense as per NFRS 16</b>	<b>674,474</b>	-

**Challenges**

The effective date of NFRS 16 is 16<sup>th</sup> July 2021 (Shrawan 1, 2078) in Nepal. As we have discussed in detail that in both cases i. e. at commencement of the lease or in initial application of lease; the assets and liabilities will be recognized or restated in the balance sheet of lessee. Also, profit or loss will be charged as depreciation expense (amortization) and interest expense instead of lease/rental expense. This will not only change the presentation of financial statements but also the evaluation being done by the various stakeholders of the lessee like suppliers, banks,

tax authorities, debtholders, shareholders, etc. Routinely analyzed financial ratios and performance metrics like current ratio, acid test ratio, EPS, ROCE, ROE, operating profit, gearing ratios, etc. will be impacted. However, operating profit and operating cash flows will be improved (interest charged instead of lease/rental) without changes in real cash flow or related activities. The effect of implementation of NFRS 16 can be misinterpreted by the users of financial statement. For example, banks can demand equity injection as long-term lease liability will increase the leverage of the firm and increase in interest expense will deteriorate the EBIT ratio. Debenture trustee may demand clarification for the breach of the terms like debt equity ratio. Similarly, taxation authorities can interpret its various implications differently in taxation. The rental expenses claimed for tax purposes may be disallowed as they shall not be represented in income statement and depreciation and interest expense will be disallowed as they are not covered under tax jurisdictions. The process of extracting, gathering, and validating lease data and assessing its impact and developing necessary IT systems for its implementation is another challenge to the lessee.

**Conclusion**

It is empirical that all the stakeholders must understand and consider the effect of changes brought in by NFRS 16 in accounting and presentation of financial statements. The tax authorities must clearly state the tax treatment of the effect under NFRS 16 else lessee is required to consider the difference through deferred tax as per NAS 12 – Income Taxes. The lessee must assess the portfolio of lease contracts and understand the impact of NFRS 16 and formulate communication strategy to inform and manage its stakeholders.

# Psychological Capital for Workplace Positivity and Productivity

*Seligman and a few others identified that the strengths and other positive features of people that make life worth living. The aim of positive psychology is to use scientific methodology to discover and promote the factors that allow individuals, groups, organizations, and communities to thrive. Importantly, it is concerned with optimal human functioning instead of pathological human functioning.*



MR. Bhuwan Raj Chataut

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Before I put my pen for this article, I tried to recall some business incidents, inspiring events or ideas in businesses I came across by any media or means. I remembered an enlightening interview with Professor Fred Luthans, I watched two-three years ago. (Having spanning career of more than five decades in academia and research, major contributions of Professor Luthans began with some of the core foundational work in Organizational Behavior (such as OB Modification) and today he continues to make impactful contributions in areas

such as Positive OB and Positive Psychological Capital.)

The interview was on psychological capacities, workplace positivity and behavioral trends in OB. Amid the interview, he was asked many questions, two relevant and vital queries are:

**First, what is the key factor that boosts productivity ?**

**Second, how to handle disengaged or difficult people ?**

He replied with smile, “There is so much negativity. Moreover, news



is negative around us. Let us bring a science that could spread positivity in the workplace, eventually, it is the key factor to boost productivity.” Further he said, “Positivity and happiness comes from within, yet they can be learned. Importantly, positivity breeds positivity. **Psychological capital (PsyCap)** supports to handle disengaged and difficult people.”

We live in rapidly changing times where the speed of driving forces of change means that the right way of yesterday may not work today and could be disaster by tomorrow. Frequent change in technology, changing tastes and preferences of customers, cut-throat competition, and shift in expectations of vendors, distributors and managed services providers are few to name that they have brought dynamism in business environment. These challenges are evidently present in business environment and equally applicable in our context.

The beauty of such challenges appears in environment is that they certainly bring opportunity with them. The companies who could meet them and offer best to their stakeholders accordingly, they cleanly win the game by achieving competitive advantages. Moreover, winning eventually depends on how best we could co-operate and coordinate and our all scarce and available resources to realize the given endeavor of achieving overall set goals and objectives.

Needless to say, identifying all types of resources needed and timely aligning them to produce desired results with

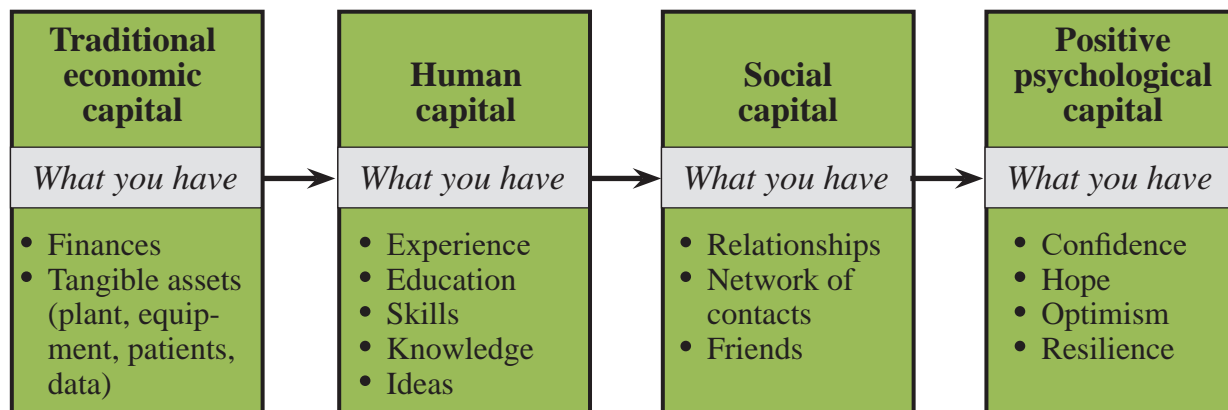
efficiency and effectiveness is the biggest challenge to any business, especially to those who simply wish to perform in fast changing environment.

Typically, we categorize resources into four types – human, physical, financial and technological (information, methods of doing). Amongst all four resources, human resources can be magical to cater competitive advantage for simple reason that they are less imitable by competitors than other resources. When we say human resources what is the first thing that comes in our mind? At least, we can consider that they are neither just the mere head-count nor any special number or any particular name.

Human resources are only living resources with infinite potentials having body, mind, heart and the spirit - the prime resources. Even using a term ‘resources’ for them seems a mistake as they are open to all possibilities, can unleash unlimited potentials and mainly, they cannot be confined in fixed boundary.

We know human resources are summation of skills, knowledge, attitudes, experience, education etc. They are the major business partners who could provide flexibility, innovation and speed-to-market in today’s environment to ensure sustained organizational performance. Here, adjacent diagram (as mentioned in Luthans, Luthans & Luthans, 2004) explains types of resources an organization needs to expand to realize superior performance.

### Expanding capital for competitive advantage



The traditional economic capital is crucial and they comprise of all equipment, machines, plant including finances where as human capital consists of “what you know”. Similarly social capital “who you know” also matters much to make connections and relationships to variety of stakeholders. Both the human and social capitals are unique and inimitable resources, they are vital to graband competitive advantage and create a success to organization both today and tomorrow. However, both the capitals –human and social and their functioning are totally dependent on the core crux what we refer as psychological capital.

### The concept of psychological capital (PsyCap)

At the very end of the 20<sup>th</sup> century a new approach in psychology that is “Positive Psychology” comes in existence. Mainly under the leadership of well-known psychologist Martin Seligman, the positive psychology movement emerged from a reaction to the almost exclusive preoccupation that psychology had given to the negative, pathological aspects of human functioning and behaving.

Seligman and a few others identified that the strengths and other positive features of people that make life worth living. The aim of *positive psychology* is touse scientific methodology to discover and promote the factors that allow individuals, groups, organizations, and communities to thrive. Importantly, it is concerned with optimal human functioning instead of pathological human functioning.

With positive psychology moment, the two new branches of positive psychology are being implemented into the industrial-organizational world, they are:

- (i) Positive organizational scholarship (POS) – originated by Kim Cameron and colleagues is a research field that emphasizes the positive characteristics of the organization that facilitates its ability to function during periods of crisis.
- (ii) Positive Organizational Behavior (POB) – researched by Fred Luthans (well known author

and professor of OB) focuses on valid measures of positive- psychological states that are open to development and have impact on desired employee attitudes, behaviors, and performance.

Later, POB that calls for practices of positive psychology in work place combines four psychological capacities – hope, efficacy, optimism and resilience–to give *positive psychological capital or psychological capital (or simply PsyCap)* and it includes few others positive constructs like subjective well-being (happiness at work) and emotional intelligence. In this way, the concept of PsyCap was introduced which basically is the combination of psychological resources a person can call on and use to help them achieve the things in the workplace that they want to.

In particular, PsyCap refers to an individual’s positive psychological state of development that embraces following four psychological capacities:

- (i) persevering toward goals and, when necessary, redirecting paths to goals(hope) in order to succeed;
- (ii) having confidence (efficacy) to take on and put in the necessary effort to succeed at challenging tasks;
- (iii) when beset by problems and adversity, sustaining and bouncing back and even beyond (resiliency) to attain success; and
- (iv) making a positive attribution (optimism) about succeeding now and in the future.

### Four Components of PsyCap

The four components of PsyCap are PsyCap-hope, PsyCap-efficacy, PsyCap-resilience and PsyCap-optimism. We can easily recall them through the acronym HERO. Let us discuss them in brief:

- (i) PsyCap Hope (The Will and The Way): It can be defined as a positive motivational state that is based on an interactively derived sense of successful ‘agency’ (goal-directed energy) and pathways

(planning to meet goals). To have high score of PsyCap hope, an employee needs to have the strong will power and the clarity of pathways to accomplish goals successfully.

- (ii) **PsyCap Efficacy (Confidence):** It simply means confidence and can be defined as one's belief about his or her ability to mobilize the motivation, cognitive resources, and courses of action necessary to execute a specific action within a given context. Employees with high score in efficacy are called as self-efficacious, they possess following five distinct characteristics:
- They set high goals for themselves and self-select into difficult tasks.
  - They welcome and thrive on challenge.
  - They are highly self-motivated.
  - They invest the necessary effort to accomplish their goals.
  - When faced with obstacles, they persevere.

Employees with low score on efficacy get distressed easily with self-doubt, skepticism, negative feedback, social criticism, obstacles and setbacks, and even repeated failure, however, such variables have little impact on people with high score.

- (iii) **PsyCap Resilience (Bouncing Back and Beyond):** The concept of resilience has considerable appeal in today's workplace as it is psychological capacity of successfully coping with adversity or stress. In organizational settings, it is characterized as the ability to "bounce back" in the face of significant

risk, adversity, uncertainty, conflict, failure or even positive change or increased responsibility.

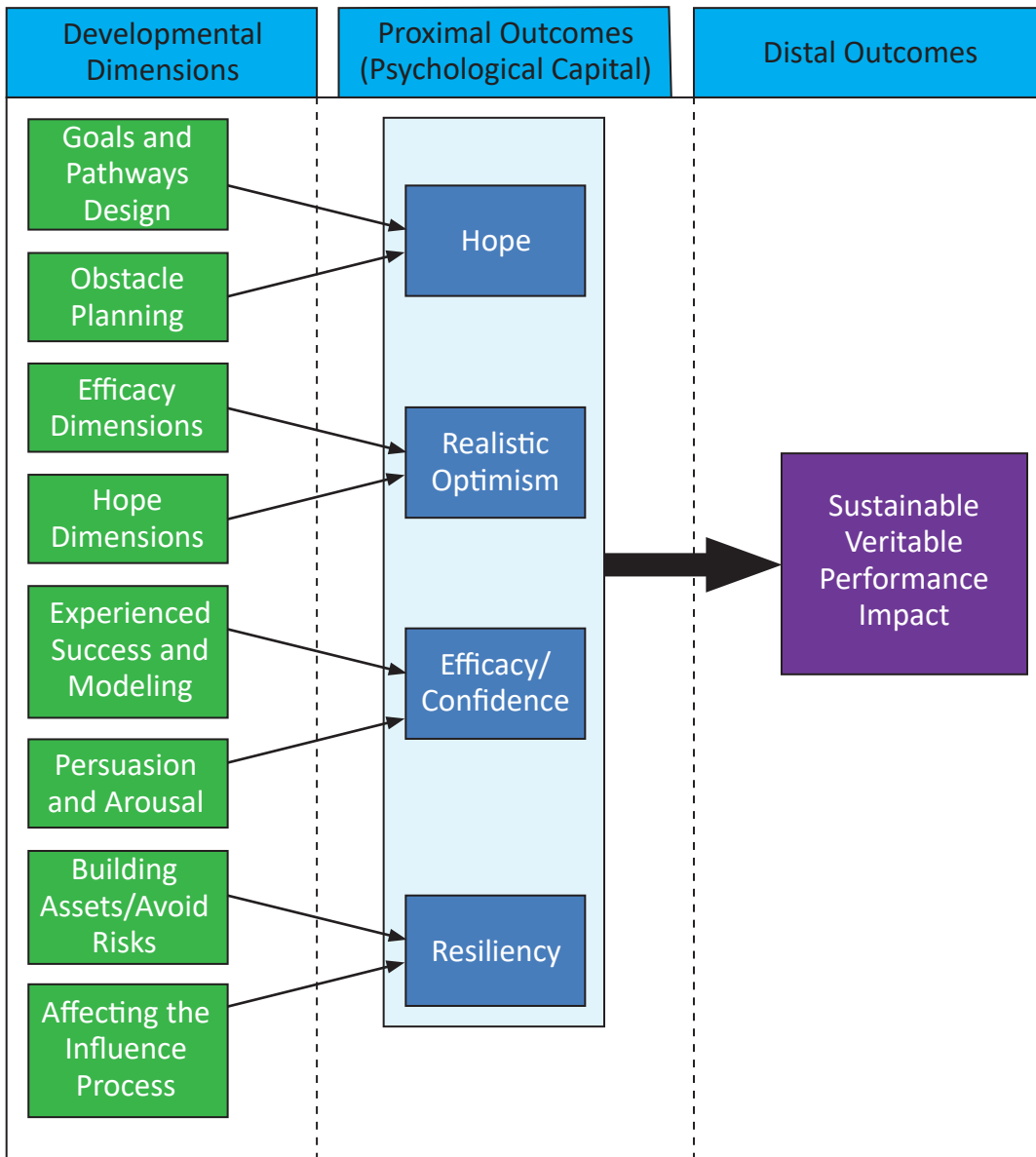
- (iv) **PsyCap Optimism (Realistic and Flexible):** Optimism is that psychological capacity of an individual through which he or she can attribute positive events to personal, permanent, and pervasive causes, and interprets negative events in terms of external, temporary, and situation-specific factors. Optimists are more likely to embrace the changes, see the opportunities that the future holds, and focus on capitalizing on those opportunities.

### Measuring PsyCap in the workplace

Professor Luthans and his associates has developed a questionnaire known as Psychological Capital Questionnaire (PCQ) that measures the four dimensions of PsyCap on 6-points scale. It takes some 10-15 minutes to complete the questionnaire and can be easily administered to individuals or groups. Mind Garden, Inc. has published the PCQ and reserves copyright over it. In our context also, we can measure our PsyCap score and easily find whether we need to build it. (Here, 6-points scale offers *six options* to respondents such as "Extremely satisfied", "Very satisfied", "Somewhat satisfied", "Somewhat dissatisfied", "Very dissatisfied", and "Extremely dissatisfied".)

### Building PsyCap and its relevance

Given diagram (Luthans, 2011) provides a glimpse to show what variables come together to build the dimensions of PsyCap.



To sum up in brief, hope can be developed through goal setting, participation, and contingency planning for alternative pathways to attain goals. Likewise, optimism come in the way through leniency for the past, appreciation for the present, and opportunity seeking for the future.

Next, efficacy or confidence we can bring into people’s being through mastery experiences, modeling and vicarious learning, social persuasion, and physiological and psychological arousal. And, finally, resiliency can

be build through asset-focused strategies, risk-focused strategies, and process-focused strategies to influence the interpretation and utilization of assets and risks.

By administering PCQ, it provides us score on each four dimensions that guide us to choose the appropriate developmental dimensions (given in adjacent figure) to flourish the overall psychological capacities of people (may be individuals or groups) in the workplace. Yet, in Nepali context, we often regard human resources as traditional economic capital and human capital. To build

and strengthen the PsyCap of our organization, we need to widen our perspective to view human resources as social capital and psychological capital.

### Summary

Drawing from positive psychology and positive organizational behavior (POB) in particular constructs and empirical research, the first-order positive psychological resources hope, efficacy, resilience, and optimism (or the HERO within) combine with each other to form PsyCap. Recently, Professor Luthans and his associates are considering a few other important dimensions to include in it. Those potential PsyCap are creativity, flow, mindfulness, gratitude, forgiveness, emotional intelligence, workplace spirituality, authenticity, and courage. Certainly such variables will contribute in the workplace to a greater extent.

In a nutshell, PsyCap can simply breed workplace positivity, happiness and provide a strong psychological foundation within people's resources that in turn obviously boost productivity, job satisfaction, organizational commitment, positive self-perception, reduce supervisory burden, help individuals remain calm and focused when overwhelmed by emotion or stress, avoid negative thinking traps, enhance well-being and so on.

As I already mentioned, good news about PsyCap is that it can be developed and positively correlates with desired employee attitudes, behaviors and performance (Luthans, 2012). It is also empirically found that high PsyCap employees support effective organizational change (Avey, Luthans & Wernsing, 2008). Also, it can be extended beyond work into other life domains such as relationships and health and well-being.

Last but not least, in today's corporate world among top performing companies around the globe, PsyCap has been gaining attention and they have started using it to strengthen and achieve optimal human functioning so that it could ensure overall effectiveness

and competitive advantages that allow a company to outperform its rivals.

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# Taxation on Digital Economy

*The threats to tax systems derive from the absence of physical presence, the strong dependence on intangible assets, the complex nature of the transactions carried out in the digital economy, and the difficulty of qualifying assets, activities and types of income.*



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## Introduction

Fast technological modifications play a very important role in the accelerated development of the digital economy. New business models evolve to fulfill customers' expectations and enhance the services provided. E-commerce increases cross-border transactions, opens new markets and improves relationships among customers. It has been estimated that by 2022, over 60% of global Gross Domestic Product (GDP) will be digitized and 70% of the new value created in the economy over the next decade will be based on digitally-enabled

platforms. In the US, Digital Economy Accounts for 8 Percent of GDP.

The threats to tax systems derive from the absence of physical presence, the strong dependence on intangible assets, the complex nature of the transactions carried out in the digital economy, and the difficulty of qualifying assets, activities and types of income.

## Impact of Digitalization on Economy

For the taxation of a digital-based economy, France has implemented a 3% Digital Service Tax (DST) on

receipts from certain digital services sourced to France. Turkey has implemented a 7.5% Digital Service Tax (DST) on gross revenue from certain services provided in Turkey. India had introduced the ‘Equalization Levy’ by Finance Act, 2016 at a rate of 6% on certain ‘specified services’ – such as online advertisement and any provision for digital advertising space or any other facility or service for online advertisement. India’s Finance Bill, 2020 proposed to expand the scope of the “equalization levy” to include consideration received by e-commerce operators from e-commerce supply or services, and taxed at a rate of 2%, applicable from 1 April 2020.

Digitalization affects the entire global economy. The impact of this new technological wave can neither be ring-fenced to specific sectors of the economy nor be circumscribed to specific countries or regions. As a consequence, the use of new digital technology has not only transformed traditional business models but has also enabled the appearance of new digital-based business models that *136 countries had reached agreement on a sweeping overhaul of the international tax system that will impose a 15% minimum tax rate on some multinational enterprises (MNEs)* pose challenges to how economies have traditionally been taxed. Globally, to address the issue of tax challenges arising from the digitization

of the economy, the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (IF) has agreed on a two-pillar solution. The Two-Pillar Solution will ensure that multinational enterprises (MNEs) will be subject to a minimum tax rate of 15%, and will re-allocate the profit of the largest and most profitable MNEs to countries worldwide. 136 members, in which Nepal is not included, jurisdictions have agreed to it as of 8 October 2021.

The key takeaways from the agreement are:

### Pillar One

- Reallocation of taxing rights on 25% of the residual profit of MNEs having a worldwide turnover and profitability exceeding €20 billion and 10%

respectively to market jurisdictions;

- Tax certainty through mandatory and binding dispute resolution;
- Removal and standstill of digital services taxes and similar measures;
- Establishing a simple and streamlined approach to the application of the arm’s length principle.

### Pillar Two

- The Global anti-Base Erosion Rules (‘GloBE’) establish a global minimum tax rate of 15% on MNEs with annual revenue over €750 million;
- A ‘subject to tax rule’ to be included in bilateral tax treaties with countries having a nominal corporate income tax rate below 9% for interest, royalties and other defined payments;
- A carve-out to allow for tax incentives afforded to substantial business activities.

### Taxation In Nepal

Though the concept of charging tax on income existed a long time ago in Nepal, the formal implementation of tax law to cover various income sources of income began in 2019 B.S. After many amendments and replacements of the tax laws, the “Income Tax Act 2058” was implemented in Nepal to address the increasing taxing complexities the country faced as a result of the globalization of the trade, and the establishment of multi-national companies and the shifting focus on an open competitive economy. The Income Tax Act, 2058 taxed the income of the taxpayers from employment, business, investment and windfall gains based on their residential status.

The taxability of the income of a person in Nepal is based on two broad principles.

- For residents: based on the “Residence Principle”
- For non-residents: based on the “Source Principle”

An entity is a resident in Nepal if it is registered/formed as per the laws of Nepal. In other words, in the case of a

person who is a resident of Nepal, the tax will be levied and collected if the income of a person is derived whether in Nepal or outside, and the income of a non-resident is taxed on the income for which source is in Nepal.

**From the ‘residence principle’ perspective following are the relevant provisions of the Income Tax Act of Nepal.**

According to Section 2 of Income Tax Act 2058, Foreign Permanent Establishment (FPE) means a Permanent Establishment of the institution or organization which is not situated in the country in which it is resident.

Permanent Establishment (PE) means a place where a person fully or partially conducts his business; the term includes the following place –

1. A place where a person fully or partially conducts his business through an agent, other than a general agent who functions independently, in the ordinary course of conducting business
2. A place where the main equipment or the main machinery of a person is kept, used or installed.
3. One or more places of a country where a person has provided any technical, professional or consultancy service through his employees or otherwise for more than 90 days in one or several lots within twelve months, or
4. A place where a person is engaged in construction, assembly, or establishment project for 90 days or more, and the place from where the supervision activities of the project are conducted.

**From the ‘source principle’ perspective, the following payments shall be deemed to have their source in Nepal.**

Looking at Section 67 of Income Tax Act, 2058 payment received by a person operating the business of transmitting news or information through such means of communication as cable, radio, optical fiber or earth satellite in consideration of transmission of news or

information through machinery and equipment installed in Nepal, irrespective of whether or not such news or information has originated in Nepal

Every country has a sizable contribution of Digital Economy to its GDP. Nepal is also no exception. However, the existing taxation law of Nepal lacks the coverage of services that are supplied through digital platforms targeting customers of various boundaries. The tax tools originated in an environment where information was recorded

*The tax tools were originated in an environment where information was recorded in physical form*

in physical form. Over the years, the emphasis has shifted to the electronic storage of information. Undertaking unilateral measures like the implementation of Digital Service Tax (DST) or in the form of ‘Equalization Levy’ could be one of the short-term measures for taxing the untapped area of the digital platform from the regulator’s perspective, however, a long term solution would resolve the issue permanently. The New taxation rules in Nepal have addressed a part of the digital economy. All monetizing audio-visual content creators and any income generated abroad received in Nepal will need to pay a 1 percent advanced tax. (This was based on Section 67(6)(h) of Income Tax Act 2058). This mentions that if any person received payment in foreign currency for providing software and other electronic facilities outside Nepal, BFIs and Money Transfers shall deduct advance tax of 1 percent. But the rule has faced criticism since it is not yet clear whether the taxation will be limited to audio-visual content like YouTube or will govern the overall electronic medium. The detail of the taxation procedure is yet to come.

The majority of the provisions of the Income Tax Act, 2058 for taxation depend on the physical presence of the taxpayer in Nepal. However, the world is moving towards the digital borderless economy through continuously evolving e-commerce, artificial intelligence, blockchain, content creation platforms and other advanced

technologies that have virtual existence only. Thus, the modification of the current tax law is inevitable to address the modern challenges posed by the digital economy to ensure efficient and effective tax administration.

## Conclusion

Taxing digital activity impacts a vast range of organizations and involves multiple overlapping disciplines of taxation, including VAT, customs duties, sales and use taxes, and traditional income taxes. Thus, most of the tax authorities around the world are looking for amicable solutions for better tax administration of the ever-growing digital economy as:

- Today's corporate tax rules are not fit for the realities of the modern global economy and do not capture business models that can make a profit from digital services in a country without being physically present.
- Current tax rules also fail to recognize the new ways in which profits are created in the digital world, in particular the role that users play in generating value for digital companies.
- There is a disconnect – or ‘mismatch’ - between where value is created and where taxes are paid which seriously needs to be addressed considering the revenue collection potentiality from it.
- The high cost of implementation, insufficient technological infrastructures, and limitations of the tax frameworks to address the current wave of digitization are some of the many obstacles to taxing the digital economy.

## “REQUESTING ARTICLE TO BE PUBLISHED IN ICAN JOURNAL”

“The Nepal Chartered Accountant” is the official publication of The Institute of Chartered Accountants of Nepal and has been published since 1998. The purpose of this Journal is to disseminate accounting, auditing, financial market, innovations information for enriching the knowledge of members and stakeholders in readable and understandable manner. So, we try to feature the articles in the Journal covering various issues related to information and technology, economy, accounting and auditing, taxation, banking, insurance, management, public financial management, governance, public policies such as monetary and economic policies, transparency and accountability, ethical and professional matters, management issues etc. and make our members, students, readers aware of the contemporary changes or innovations in business and professional landscape in accounting sector and get them updated.

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### The structure of Article for Journal shall be as outlined below:

1. Title- The title should be self-explanatory and capture the essence of the text and should be few words as much as possible.
2. Keywords used - Key words can be provided as per need.
3. Introduction
4. Main body
  - Heading - It must be in concise form and related to topic
  - Sub-heading – supports to heading
5. Conclusion- Article should be concluded with conclusion
  - a) References- Must be adequate and provided in case of need.



## Understanding the Law making Process

*Council of Ministers makes decision in relation to the issuance of rules framed by the Government of Nepal. Although the process of issuance of rule is slightly more complicated, just remember that Act is formed by the Parliament and Rules is formed by the Council.*



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### Introduction

Law, the binding force of human civilization, has an irrefutable influence in the development, harmony and overall growth of human civilization. Absence of law leads to unimaginable disorder and corruption. This system of rules created and enforced by an authority to govern a society helps to shape the political, commercial, social and economic aspects of that society. When we speak of law, what exactly are we referring to? Does law mean natural law, jurisprudence, principles or acts, or rules or directives or precedents or all of them ?

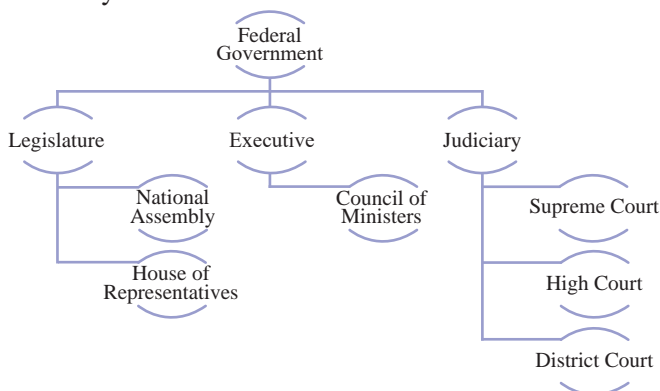
Most of us are concerned as to what the law expects from us and pretty much unaware of how a law is formed. The fines and penalties and more prominently, defamation, is what makes men fear law. Interpretation of law is another hassle as legal professionals have different opinions on the same provision. In addition, second opinion on any legal provision often leads to confusions, and more opinions mean more confusion. At least for this article, when I talk of law, I am referring to legislations enacted by the government. I have included the basic understanding of law-making process as per the constitution of Nepal.



**A constitutional provision on legislation-** The first thing that readers need to understand is that the supreme law of any nation is the Constitution. Article 1 of the Constitution of Nepal considers the constitution to be the fundamental law of Nepal. Any law inconsistent with the constitution will, to the extent of such inconsistency, be void. Hence, constitution holds the top position in legislative power of Nepal.

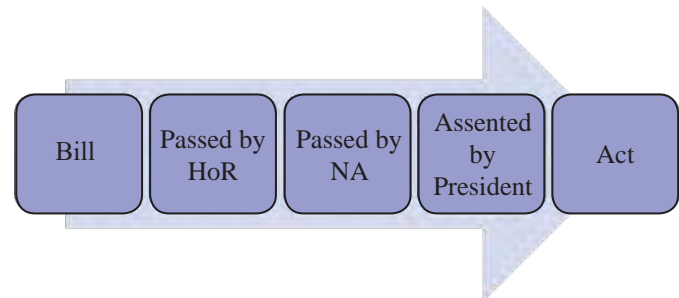
Article 306 of Constitution of Nepal 2072 defines “**law**” as Federal law, State law and Local law. Basically, it covers legislations of all three levels of the (GoN). There are three levels of laws owing to the three levels of the government structure namely the Federation (संघ), the State (Province (प्रदेश)) and the Local Level (स्थानियतह). It should be clear that these three levels of the government are **not hierarchically related**, rather, their relationships are based on the principles of co-existence, cooperation, and coordination.

**Structure of Federal Government-** Federal Government is formed of three parts: Legislative Executive (कार्यपालिका) and Judiciary (न्यायपालिका). Federal Legislature refers to the Federal Parliament (संघीय संसद) (consisting of House of Representatives (प्रतिनिधि सभा) and National Assembly (राष्ट्रिय सभा) that introduces legislations. Federal Executive consisting of Council of Ministers has the executive power with responsibility of issuing rules, controlling and regulating governance of the country subject to the constitution and laws in force. Judiciary refers to the courts (Supreme Court, High Court and District Court). Supreme Court holds the top most position of the Judiciary.



**Authority and Responsibility-** The constitution mentions that the President shall be the head of the country. Prime Minister and Ministers are responsible to the Federal Parliament and the Supreme Court is the final authority to interpret the Constitution and laws. So, everyone is legally mandated to abide by interpretation of constitution of laws made by the Supreme Court or any legal principle laid down by it. It is crucial for us to understand the functions of the different parts of government in order to comprehend government notices, acts, rules and directives.

**Bill to Act-** A bill (विधेयक) is a written suggestive draft for a law presented in the parliament for discussion and it has no legal implication until it becomes an Act (ऐन). A bill is first drafted and introduced in one of the two houses of Federal Parliament. After the bill is approved by one House (House of Representative), the same is passed on to the other House (National Assembly). After discussions in the National Assembly (NA), the same if accepted, is presented to the President for assent.



There are detailed procedures of amendments, discussions, joint sittings and debates where necessary for passing the bills mentioned in the constitution. However, after both the houses approve the bill, such bill is presented to the President for authentication. **A bill becomes an Act after the President gives assent to it**. So, the constitution says that all Acts need to be assented by the President (**Head of state**). The difference between a Bill and an Act can be easily understood as a work in progress and a law.

**Ordinance-** Ordinance (अध्यादेश) is a tool, where in special circumstance necessary to take immediate action,

the President, on recommendation of the Council of Ministers, promulgates an order which has the same force and effect as an Act. However, down the line, the ordinance needs to be tabled at the session of both Houses of the Federal Parliament, otherwise ipso facto such ceases to be effective. For those interested to learn more on the law-making process, I suggest downloading “Federal Parliament: Booklet on Lawmaking” available on UNDP’s website.

**Delegated Legislations-** Rules, regulations, bye-laws, notifications and directives which are formed outside the legislature are termed as delegated legislations. However, such delegated legislations (also referred to as subordinate legislations) owe their legality to the Acts formed by the parliament.

Simply put, Act is superior to a Rule, the latter of which is formulated to aid the execution of provisions of the Act. Act comes first which is then followed by the Rule. For example: Section 138 of Income Tax Act 2058, Section 41 of VAT Act 2052, Section 92 of Customs Act 2064 and Section 25 of Excise Duty Act 2058 gives the **Nepal Government** the right to formulate rules in line with the corresponding Acts.

This is really important: scope of a delegated legislation is limited to the parent Act and cannot exceed the powers granted by the parent Act. We may have seen cases where the Rule brings out something which is completely absent in the Act itself. However, technical interpretation and practical implementation of legislations may be different.

There is an executive as well as legislation structure in the province and local levels as well; where execution and formulation of any law is mentioned in the constitution. This process is more or less similar to that of the Federal legislation. In either case, jurisdiction of Supreme Court is not affected.

The constitution gives the federation the power to make treaties or agreements. However, state level contractual agreements on financial and industrial matters can be

done by state council of ministers on consent of the GoN.

Laws in force at the time of commencement of this constitution will continue to be in force until such laws are repealed or amended. This is specifically mentioned in the constitution. However, any law inconsistent with the Constitution shall ipso facto be invalid to the extent of such inconsistency.

**No taxation without Legislation- Article 115** of the Constitution of Nepal states that no tax shall be levied and collected except in accordance with law. So, before making payment of a particular tax, we should be well aware of the legislation or the Act governing such tax collection. Few years back, everyone was acquainted with health tax and education tax, however many were not aware of the legal provisions of such taxes. This resulted in confusion of collection of service charge paid to restaurants and hotels. Likewise, some considered it to be a form of tax that is ultimately paid to the government.

**Income Tax Act, Rule and Directives-** Understanding relation between an Act, a Rule and a Directive along with circulars and rulings can be made better by studying a particular legislation. With that in mind, let us reflect on the legislations pertaining to the Income Tax considering the interest of the public that pay the tax and the government whose revenue is linked to it.

Income Tax Act 2058 was introduced in 19 Chaitra 2058, which is updated every year through the Finance Act which is brought along with the budget. Income Tax Rules 2059 and Income Tax Directives 2066 (with amendments of 2073) have been formulated under the section 138 and 139 of Income Tax Act 2058 respectively.

Wherever there are contradictions between the Act and Directive or the Rule and Directive, the Directive itself states that the provisions of the Act or Rules shall precede. So, if the Directive contradicts with Act and Rules, the Directives shall ipso facto be void upto the extent of contradiction.

## CONSTITUTION

## ACTS

## RULES

## DIRECTIVES

Further, the Directive helps to gain a perspective on hierarchy of the law as we have seen in above paragraphs. The Directive states that Constitution>Act>Rules. The Directive however mentions that DTAA (Double Tax Avoidance Agreement) shall precede over the Act. This is an important factor considering international taxation implications.

**International agreements, public circulars and advanced rulings-** Section 73 of Income Tax Act 2058 mentions that the GoN may sign an international agreement with a foreign government to avoid double taxation. This section clarifies that in case any international agreement exempts any income or payment or reduced rates of tax in Nepal on any income or payment, such shall be applicable. This means that the international agreement shall precede over the Act subject to certain limitations set forth in the Act.

Section 75 of the Act provides IRD (Inland Revenue Department) with the right to issue public circulars along with interpretations in relation to the provisions contained in the Act. So, public circulars are issued merely for simplifying tax administration and bringing uniformity in the implementation of the Act. Public circulars are applicable to all unless stated otherwise.

If anyone applies in writing to IRD for clarity in any confusion in regards to the Act, IRD shall issue an advance ruling which is applicable to those who have applied for the same. In case of conflict between an advanced ruling and a public circular, the advanced ruling shall be given priority in respect to the person to whom the advanced ruling has been issued and for the rest, public circular shall apply.

**Important fact to keep in mind:**

**Legislations governing Income Tax** – Section 142 of Income Tax Act 2058 says that *no other law may amend or change any tax related provisions or make additional tax related provisions except for Finance Act or by amending the Income Tax Act, itself.* So, the facilities and concessions provided in any other legislations in relation to concessions of income tax may not be allowed by the tax officers and IRD, as this provision gives Income Tax Act the ultimate authority over income tax. Similarly, Section 24 of Excise Act mentions that no other Act can make any amendment to, or alter excise tax provisions referred to in the Excise Act or make other excise duty related provisions.

It is interesting to note that such provision is absent in VAT Act, so whether VAT concessions provided in any legislation beyond VAT Act will be allowed or not is unclear. Section 43 of the VAT Act leaves us with a confusing provision stating that the Act and Rules framed thereunder will prevail to the extent of the provisions and in other cases other prevailing laws shall prevail. So, will additional concessions of VAT mentioned in legislations beyond VAT Act be applicable?

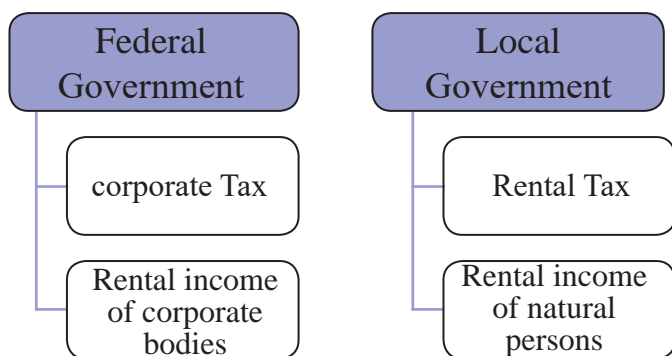
**Practical Issue:**

**Rent Tax** - As mentioned above the areas of legislations which the Federal and local level government define are properly defined in the constitution. However, due to unclear guidelines and misunderstandings in the working level, we have noted issues, one of which is that of rent tax.

Article 57 (more specifically Schedule 5) of the constitution gives the power to raise corporate income tax to the Federation (State) and (Schedule 8) gives the power to raise house rent tax to the local level. This is also supported by Section 3 (Schedule 1 and 3) of Intergovernmental Fiscal Arrangement Act, 2074.

So, TDS for rental income of natural person need not be deducted in line with section 88 of Income Tax Act

2058. However, TDS may be applicable in accordance with the local body legislation. *Simply put, a corporate body residing in Kathmandu, may not have to deduct TDS in line with Income Tax Act 2058 while making rental payment to a natural person.* However, Finance Act 2077 of Kathmandu mentions raising rental tax, so in case of Kathmandu, *the rental income although exempt from Income Tax is not exempt from local level taxes.*



What about rental incomes of corporate bodies? Currently, local level government have been claiming rental tax from the corporate bodies with rental income, but rental income is also subject to income tax which is again under the purview of Federation. This has resulted in rental tax dispute between the local bodies and the Federal government as seen in the case between Biratnagar Metropolitan Office and Inland Revenue Office Biratnagar where the *Biratnagar High Court decided* in the favor of Inland Revenue Office justifying that the *rental income of corporate bodies to be part of their business income, hence subject to income tax only.* However, until a proper clarification comes from both the Federal and the local government or a precedent is put forward by the Supreme Court, this issue still remains vague.

With decentralization of power, we are bound to have some tussles in revenue collection, performance and overall development of each level. We have already seen debates over rent tax between local level and Federal level, where confusions have led taxpayers to pay double tax on rental income. So, my understanding is that until

any case is brought to the Supreme Court and a decision is provided by it, there will remain ambiguity in the rental tax situation.

**Interpretation of Statutes 2010-** There is a law that has been specifically enacted for interpretation of laws. This law defines Nepal Government as the body with the executive power mentioning the Council of Ministers.

Section 3 of the Act mentions that any Act formed after Asoj 3, 2072 (day the constitution has become effective) shall be executed from the day that President gives assent to it. However, *no penalty can be imposed as per the Act until such Act is published in Nepal Gazette.* So, until any Act is published in Nepal Gazette, the public cannot be considered to have knowledge of such enactment and cannot be punished for the same.

**Some Public Documents Authentication Act 2063-**

A more detail of the constitutional procedures on the formation of Acts is given in “*Some Public Documents Authentication Act 2063*”. Very precisely, Section 3 of the Act states that after an Act is assented by the President, Secretary at the Ministry of Law and Justice publishes the Act, containing the date of authentication, in the Nepal Gazette. Section 5 states that the Secretary at the Ministry of Law and Justice publishes ordinance, mentioning the date of authentication, in the Nepal Gazette. So, the general public are informed of an Act or Ordinance after such is published in Nepal Gazette.

According to Section 6, Council of Ministers makes decision in relation to the issuance of rules framed by the Government of Nepal. Although the process of issuance of rule is slightly more complicated, just remember that *Act is formed by the Parliament and Rules is formed by the Council.*

**Conclusion**

Having gone through the law-making process and with a brief idea between legislation and delegated legislation, I hope this article may help readers to understand how



a law is formulated and of its legality and hierarchy. We are still at an early stage of implementation of the Federal Structure, so it is our responsibility to help implement the legislations. Understanding the law-making process and the hierarchy of legislations can help us identify and know the steps to be taken when there are conflicting provisions in two different laws. It is worth noting that law of land governs us all who desire to thrive in this environment and so we should be aware of it and help in the implementation, development as well as proper reach of the law of land.

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<http://www.pioneerlaw.com/>

## सूचना

### Unique Document Identification Number (UDIN) लागू गरिएको बारे

नेपाल चार्टर्ड एकाउन्टेन्ट्स संस्था नेपालमा लेखा व्यवसायको विकास, संरक्षण र सम्बर्द्धन गर्नका लागि नेपाल चार्टर्ड एकाउन्टेन्ट्स ऐन, २०५३ अन्तर्गत स्थापित एक स्वायत्त र नियमनकारी निकाय हो। यस संस्थाले उल्लेखित ऐन र सो ऐन अन्तर्गत बनेको नेपाल चार्टर्ड एकाउन्टेन्ट्स नियमावली, २०६१ को अधिनमा रही नेपालभित्र लेखा व्यवसायको प्रवर्द्धन, जनशक्ति उत्पादन, लेखापरीक्षण गर्ने अनुमतिका लागि पेशागत प्रमाणपत्र प्रदान गर्ने र लेखा व्यवसाय नियमन गर्ने कार्य गर्दछ।

यस संस्थाद्वारा लेखा व्यवसाय प्रति सामाजिक मान्यता र विश्वास अभिवृद्धि गर्न तथा गैर कानूनी लेखापरीक्षणलाई रोक लगाउने उद्देश्यले Unique Document Identification Number (UDIN) २०७६ कार्तिक १ गतेदेखि अनिवार्य रूपमा लागू गरेको छ। संस्थाबाट पेशागत प्रमाण पत्र प्राप्त सदस्यहरूले आफ्नो व्यावसायीक प्रयोजनको सिलसिलामा हस्ताक्षर गरिने कुनै पनि प्रकारको प्रतिवेदनहरू (जस्तै बाह्य लेखापरीक्षण, आन्तरिक लेखापरीक्षण, कर लेखापरीक्षण, Due Diligence Report, Valuation Report तथा अन्य प्रतिवेदनहरू) मा अनिवार्य रूपम १८ Digit को UDIN समावेश गर्नुपर्ने व्यवस्था गरिएको छ।

तसर्थ, संस्थाका पेशागत प्रमाणपत्र प्राप्त सदस्यहरूबाट १८ Digit को UDIN समावेश नगरी जारी गरिएका प्रतिवेदनहरूलाई संस्थाबाट वैधानिक मान्यता नदिने व्यहोरा समेत अवगत गराइन्छ। संस्थाका पेशागत प्रमाणपत्र प्राप्त सदस्यले जारी गरेका प्रतिवेदनहरू प्राप्त गर्ने व्यक्ति, संस्था वा निकायले यस संस्थाको वेबसाइट [www.udin.ican.org.np](http://www.udin.ican.org.np) भित्र Check UDIN मा Click गरी आफ्नो नाम, मोबाईल नम्बर, इमेल र प्राप्त प्रतिवेदनमा उल्लेखित UDIN Number राखी उक्त UDIN को वैधानिकता प्रमाणित (Verify) गर्न सक्नुहुने व्यहोरा पनि जानकारी गराइन्छ।



नेपाल चार्टर्ड एकाउन्टेन्ट्स संस्था  
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## Judicial Update

*The interest under Section 118 of the Income Tax Act, 2058 shall be imposed only for the short payment of estimated tax amount pursuant to Section 94 of the Act.*

*Under Section 16A of the Value Added Tax Act, the record of taxpayer generated from the database recorded in computer of IRD or IRO there under shall be acceptable as evidence for purposes of tax.*



CA. Pramod Lingden

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### Case-I: Income Tax Act, 2058

Supreme Court Decision

Date: 2078.04.18

Parties: Large Taxpayer Office,

Lalitpur Vs. Indushankar Chini

Udhyog Ltd, Sarlahi

Supreme Court Case No.:- 074-RB-0366

Link: [https://supremecourt.gov.np/cp/assets/downloads/supreme\\_183262.pdf](https://supremecourt.gov.np/cp/assets/downloads/supreme_183262.pdf)

### Interest on Social Security Tax:

#### Fact:

The Assessee M/s Indu Shankar Chini Udhyog Ltd had submitted its

Income Tax Return of F/Y 2067/068 to the Large Taxpayer Office (LTO) under section 96 of the Income Tax Act 2058 on 2068.09.26.

Later on, at the time of its tax assessment, the LTO ordered to deposit an interest amount as per **section 118** of the Act upon the deficit amount of Social Security Tax (SST) to be deposited by it on the ground that taxpayer has deposited less amount of Social Security Tax (SST) than the total amount of tax. Additionally, for the same amount of tax, the LTO had charged an interest amount under section 119 of the Act

as well on the ground that taxpayer caused delay to pay such SST.

### **Dispute:**

The Assessee, being dissatisfied with such tax assessment order made by the LTO, had applied to the Inland Revenue Department for Administrative Review under Section 115 of the Income Tax Act 2058 on 2069.10.14. However, the IRD endorsed the tax assessment order of the LTO on the ground such tax assessment is in consonance with the law and rejected the application of the Tax Payer on 2069.11.20.

Then the Tax Payer, being dissatisfied with such decision of the Administrative Review, appealed to the Revenue Tribunal, Kathmandu against it under section 116 of the Act. The Revenue Tribunal quashed the tax assessment order of LTO along with the decision of the Administrative Review to endorse such order of LTO and upheld the claim of the taxpayer on 2072.08.21. So, the LTO, being dissatisfied with such decision of the Revenue Tribunal, appealed to the Supreme Court against its decision.

### **Supreme Court Judgement:**

The Supreme Court quashed the tax assessment order & claim of LTO along with the decision of Administrative Review to endorse such order and upheld the decision of Revenue Tribunal stating that the interest under **Section 118** of the Income Tax Act, 2058 shall be imposed only for the short payment of estimated tax amount pursuant to Section 94 of the Act. It means, interest under Section 118 of the Act is imposed only if there is assessable income from business or investment in a fiscal year and the total installment tax amount paid by an Assessee is less than the total estimated tax amount to be paid as per the concerned section. Except in this condition, if the tax amount of any type of income is not deposited within the prescribed period, the interest shall be charged pursuant to the provision of section 119 of the Act.

### **Case-II: Value Added Tax Act, 2052**

Supreme Court Decision Date:2078.11.09

Parties: Inland Revenue Office Area No. 3, Lazimpat Vs. Mesmerize Fashion and Excellence, Kathmandu  
Supreme Court Case No.:- 071-RB-0148

*Link: [https://supremecourt.gov.np/cp/assets/downloads/supreme\\_138684.pdf](https://supremecourt.gov.np/cp/assets/downloads/supreme_138684.pdf)*

### **Tax Assessment on the Basis of Computer Records instead of Issued Invoices:**

#### **Fact:**

The Tax Payer M/s Mesmerize Fashion & Excellence, Kathmandu had been maintaining its books of account in a computer system. In addition, it had obtained prior approval of the Inland Revenue Department for issuing invoices by using the computer system under Section 14A of the Value Added Tax Act, 2052 and had been affiliated to the Central Billing Monitoring System (CBMS) of the Department. It had been filing its VAT Returns and Income Tax Returns on the basis of sales invoices issued and purchase invoice received.

Later on, the Inland Revenue Office (IRO) Area No. 3, Lazimpat raided the Tax Payer's office and taken into control its books of accounts, sales book, purchase book, record files, invoices along with the computer CPU in which it had maintained its records. Then, it found the sales information disclosed in VAT Returns of the Tax Payer is less than the sales information retained in such computer CPU and estimated transactions of the Inland Revenue Department (IRD). Then, the IRO presumed that the sales transactions have been concealed by the Tax Payer and lesser amounts of sales have been disclosed in such VAT Returns & Income Tax Returns. So, under section 20 of the Act, the IRO issued a final tax assessment order of NPR 80,63,100.00 to be paid as tax, additional fee, fine and interest for the period of transactions from Baisakh, 2063 to Bhadra, 2066 on 2066.09.21. The basis for assessing this additional tax amount was the sales information retained in such computer CPU, transactions estimated by the IRD and statements obtained from the representative of the Tax Payer instead of its issued invoices.

### **Dispute:**

The Tax Payer, being dissatisfied with such tax assessment order made by the IRO, had applied to the Inland Revenue Department (IRD) for Administrative Review under Section 31A of the Value Added Tax Act 2052 on 2066.12.11. It complained that the IRO made such tax assessment improperly by avoiding its sales invoices and concerning just the sales information retained in the CPU. Further, it clarified that the CPU contains other different types of information in addition to sales of the firm and some of sales figures of the firm recorded in it have also been entered double times erroneously. However, in the absence of evidences to support the claim of the tax payer, the IRD rejected its application and endorsed the tax assessment order of the IRO on 2066.12.31.

Then, the Tax Payer, being dissatisfied with such decision of the IRD, appealed to the Revenue Tribunal, Kathmandu against the decision of the Administrative Review under section 32 of the Act. The Revenue Tribunal quashed the tax assessment order of the IRO along with the decision of the Administrative Review to endorse it and upheld the claim of the taxpayer on 2068.08.27. So, the IRO

appealed to the Supreme Court against such decision of Revenue Tribunal.

### **Supreme Court Judgement:**

The Supreme Court quashed the decision of the Revenue Tribunal and upheld the tax assessment order of IRO along with the decision of Administrative Review to endorse such order on the ground of lack of evidences to prove the claim of the Tax Payer. Regarding the claim of the Tax Payer, the Court stated that the Tax Payer has accepted the sales transactions disclosed in its VAT Returns are out of the information retained in the computer CPU. However, it failed to prove that such additional sales transactions recorded in the CPU do not belong to the firm Mesmerize Fashion and Excellence. Also, it has claimed that transactions have been entered double times in the computer CPU. However, it failed to prove which transactions have been entered double times in such a way. In addition, the Court interpreted that under section 16A of the Act, the record of taxpayer generated from the database recorded in computer of IRD or IRO there under shall be acceptable as evidence for purposes of tax.

# NEWS

## Regulation and Supervision

### Quality Assurance Review

The Quality Assurance Unit of the Institute along with the steering and oversight of the Quality Assurance Board has been conducting quality assurance review of audit firms. The Quality Assurance Unit has also started the second cycle review of Chartered Accountant Firms. Moreover, a notice regarding determination of fees for second follow-up quality assurance review visit of the firms. The notice can be viewed from the link below:

[https://en.ican.org.np/\\_uploads/\\_downloads/\\_files/3/5a588369611216b27e33699ee57709eb.pdf](https://en.ican.org.np/_uploads/_downloads/_files/3/5a588369611216b27e33699ee57709eb.pdf)

## Professional Development

### Training on "Mitigation of Gaps Identified in NFRS Implementation Status in State Owned Enterprises (SOE)"

The Institute organized five days Training on “Mitigation of Gaps Identified in NFRS Implementation Status in State Owned Enterprises (SOE)” from 20<sup>th</sup> to 24<sup>th</sup> March, 2022 in Kathmandu and total 49 accounting professionals serving in SOEs participated the program. ICAN President, CA. Yuddha Raj Oli and Under Secretary, Public Debt Management Office (PDMO), Mr. Dinesh Regmi addressed the opening session of the program



*Participants of Training with ICAN President and other Officials in the Program*

The five-day program has total five session as below:

Technical Session	Presentation Topic and Name of presenter
One	“Mapping NFRS Implementation Status in SOE” - CA. Prabin Raj Kafle
Two	“Going in Depth for Mitigation Gaps in Area of Inventories, Going in Depth for Mitigating Gaps in area of Property, Plant and Equipment and Intangible Assets” - CA. Nirjal Shrestha
Three	“Going in Depth for Mitigating Gaps in Area of Employee Benefit”, “Going in Depth for Mitigating Gaps in Area of Financial Assets and Liabilities and Borrowing Cost” - CA. Prabin Baral
Four	“Going in Depth for Mitigating Gaps in Area of Government Grant” and “Going in Depth for Mitigating Gaps in Area of Deferred Taxes” - CA. Prabin Raj Kafle
Five	“Going in Depth for Mitigating Gaps in Area of Statement of Financial Position, Statement of Profit or Loss, Statement of Other Comprehensive Income, Statement of Cash Flows and Disclosures” - - CA. Prabin Raj Kafle

### Training on Nepal Financial Reporting Standards for Small and Medium Enterprises (NFRS for SMEs)

The Institute of Chartered Accountants of Nepal organized a training on NFRS for SMEs on 19<sup>th</sup> February, 2022 at ICAN premises, Lalitpur. CA. Sanjay Kumar Sinha, Executive Director delivered welcome speech in the program. During his speech he highlighted the importance of such training and committed to facilitate the effective implementation of NFRS in SMEs. This training was designed to enhance the theoretical and practical knowledge about the proper application of NFRS while preparing and presenting Financial Statements of Small and Medium Enterprises and facilitate participant’s understandings on the gravity of application of NFRS



in SMEs. Training was conducted by CA. Prabin Raj Kafle and about 64 members of the Institute attended the program.

### **Training on Code of Ethics**

Pokhara Branch Office of the Institute organized an online training on “Code of Ethics” on 28<sup>th</sup> January 2022. The objective of this training was to promote an ethical culture amongst the Accounting Professionals. Program was organized in the presence of Council Member RA. Kesh Bahadur K.C and CA. Shankar Thapa was the resource person for the training. The training was participated by around 100 members.

### **Online Interaction Program on “Biological Assets”**

Butwal Branch Coordination Committee of the Institute organized an online interaction program on “**Biological Assets**” on 29<sup>th</sup> January, 2022. The objective of the interaction program was to enhance awareness so as to ensure compliance among members regarding Nepal Accounting Standard 41 on Agriculture and Biological Assets. The Online program was conducted in the Chairmanship of Branch Coordination Committee (BCC) Coordinator, CA. Sheo Hari Sharma. ICAN President CA. Yuddha Raj Oli was the Chief Guest of the program. CA. Hari Lamsal Member BCC, started the program with a welcome remarks and CA. Arun Raut was resource person in the interaction program. Around 150 members participated the program.

### **Online Interaction Program on "Nepal Standards on Quality Control (NSQC)"**

Dhangadhi Branch Office of the Institute organized an online interaction program on “Nepal Standards Quality Control (NSQC)” on 30<sup>th</sup> January, 2022. The objective of this program was to provide guidance regarding a firm's responsibilities for its system of quality control for audits and reviews of historical financial information, including other assurance and related service engagements.

The program was organized in presence of Branch Coordination Committee (BCC) Coordinator CA.

Umesh Raj Pandey, President CA. Yuddha Raj Oli and Vice-President, CA. Bhaskar Singh Lala, Auditor Association of Nepal SudurPachhim Province Chairman, RA. Amber Raj Joshi, Chief Tax Officer of Dhangadi, Mr. Gauri Shankar Upadhyay and Chief Tax Officer of Mahendranagar, Mr. Pushkar Neupane. And, CA. Sunil Joshi conducted the training sessions. The program was participated by around 100 members.

### **RA Members Capacity Development Program**

The Institute organized a full day RA Member Capacity Development Program for Registered Auditor on 19<sup>th</sup> March, 2022 in ICAN Premises located at ICAN Marg, Satdobato, Lalitpur. The program started with the welcome remarks of Chairman of RA Member Capacity Development Committee, RA. Posh Raj Nepal, where, ICAN President CA. Yuddha Raj Oli explained about the requirement for enhancement of members capacity for overall development of accounting profession. Similarly, President of Auditor’s Association of Nepal (AuDAN) RA. Mohan Raj Regmi emphasized on the importance of such program and urged to organize such additional programs in the days to come. The program was conducted in four different sessions. The first two sessions were on “Biological Assets: Accounting for Agriculture Sector as per NAS 41- Agriculture,” facilitated by CA. Viman Karkee where, the last two sessions were on “Construction Contract: General Concept on IFRIC 12- Service Concession Agreements and Taxation Impact” facilitated by CA. Arun Raut. Altogether 72 RA members participated in this program.

### **Webinar on Audit Practice Management Software**

The Institute facilitate a webinar on Audit Practice Management Software on 17<sup>th</sup> January, 2022. The webinar was organized by the developer of audit practice management software “Simplify Practice” M/S Vritti Solutions. The webinar was attended by altogether 50 members in practice and their staff.



## Continuing Professional Education (CPE Training)

The Institute with its objective to enhance the professional capacity of members has been organizing CPE Training on various contemporary topics at different places of Nepal and through virtual mode. The details of CPE program have been presented in the table below. Total, 769 members participated in this CPE Training.

Program Date and Place	CPE Topic
11 <sup>th</sup> to 13 <sup>th</sup> March, 2022 ICAN Head Office	NFRS in Hydro Power Companies, application of NAS in Not for Profit Organizations (NPOs), application of NSAs in audit of Small and Medium Sized Entities (SMEs), Nepal Standard on Quality Control (NSQC-1), Code of Ethics and legal session on Companies and Social Welfare Act, Rules and Directives
25 <sup>th</sup> – 27 <sup>th</sup> March, 2022 Butwal, Rupendehi	NFRS for SMEs, NAS for Micro Entities (MEs), NAS for NPOs, School Audit, Cooperative Audit, and specific provision of Income Tax Act
24 <sup>th</sup> to 27 <sup>th</sup> February, 2022 Virtual Mode	Audit of manufacturing sector and school audit

## New CA Member Welcome Program

The Institute organized a welcome program for newly inducted CA Members on 10<sup>th</sup> March 2022 at ICAN Premises, Satdobato, Lalitpur. Welcoming the new members, the Executive Director CA. Sanjay Kumar Sinha mentioned that the objective of the program is to orient the new members about various aspects related to their personal and professional career. Similarly, President, CA. Yuddha Raj Oli, underscored the importance of “Branding of Accounting Profession”. In the program Mr. Roopesh Shrestha, soft skills trainer presented and gave deliberation on Professional Aptitude for Chartered Accountants. This program was participated by 37 inductees. Program was concluded with vote of thanks and closing remarks of Vice-President CA. Bhaskar Singh Lala.

## Education

### Students Participation in 36<sup>th</sup> International CA Student’s Conference, 2022 at Sri Lanka

Two students of CAP-III level comprising of Mr. Ashirwad Gautam and Ms. Seema Khadka were nominated by the Institute for participating in the 36<sup>th</sup> International CA Student Conference organized by the Chartered Accountants Student’s Society (CASS) of CA Sri Lanka. The nominated students attained the conference held at Colombo, Sri Lanka from 28<sup>th</sup> February to 02<sup>nd</sup> March, 2022. The nominated students presented paper on the theme “EMBRACE THE TRANSFORMATION - Catch the Wave” at the conference.



Group photo of participants and officials at 36<sup>th</sup> International CA Student Conference, 2022

### New Student Orientation Program (CAP-I Level)

The Institute organized virtual orientation program for CAP I level students on 12<sup>th</sup> January, 2022. The purpose of the students’ orientation program was to impart knowledge to newly enrolled students about Chartered Accountancy Course, future career prospects of Chartered Accountants and welcome them in the fraternity of CA students. ICAN President, CA. Yuddha Raj Oli, Executive Director, CA. Sanjay Kumar Sinha and Deputy Director, CA. Himlal Dahal gave their remarks in the orientation program and briefed about the Institute, Chartered Accountancy Course and Course of Action to be observed by CA Students.

Likewise, recently qualified Chartered Accountants CA. Prabesh Dhakal and CA. Rishi Pokharel briefed about their Journey to become Chartered Accountant. Training specialist Mr. Rajan Koirala delivered a session about the way of Personality Development. ICAN Vice- President

CA. Bhaskar Singh Lala concluded the program with the closing speech. Around 1,000 students participated in the virtual orientation program.

### Chartered Accountancy Examination Result Published

The Institute has published the result of Chartered Accountancy Examination CAP I, CAP II and CAP III level conducted in December, 2021. The result of CAP I level was published on 20<sup>th</sup> February, 2022 and that of CAP II and CAP III was published on 07<sup>th</sup> March, 2022. Details of students applied, appeared, passed in CAP I, CAP II and CAP III level of CA examination is presented below:

	CAP I			CAP II			CAP III		
	Group I	Group II	Both	Group I	Group II	Both	Group I	Group II	Both
<b>Applicants</b>	1,425	782	530	1,485	429	489	279		
<b>Appeared</b>	1,281	630	439	1,279	362	412	256		
<b>Passed</b>	745	113	153	76	18	106	7		
<b>Qualified</b>	<b>745</b>	<b>185</b>			<b>25</b>				

### General Management and Communication Skills (GMCS) Training

The Institute organized 20<sup>th</sup> batch of General Management and Communication Skills (GMCS) training for the students who have passed or appeared both group of CAP III level examination. The purpose of this training was to impart knowledge among participants to make them capable of translating challenges into rewarding opportunities by applying emotional intelligence and soft skills in the working atmosphere and to enhance the communication and interpersonal skills and to provide understanding of contemporary business environment and opportunities.



Group Photograph of Participants with ICAN Officials at GMCS Training Program

This training is a prerequisite for obtaining membership of the Institute. Students, who have passed CAP III level, appeared both group of CAP III level or passed AT Examinations are eligible to attend this training. Altogether, 25 students participated in the training.

## National Relation: Public and Government

### Memorandum of Understanding (MoU) with Insurance Board

The Institute has signed MoU with Insurance Board for facilitating exchange of information and mutual cooperation on 23<sup>rd</sup> February, 2022 at ICAN building, Satdobato, Lalitpur. The objective of this MoU is to work in the areas of facilitating NFRS implementation at Insurance Companies in Nepal, promote corporate governance and protect the rights of general investors.



Chairman, Insurance Board of Nepal, Mr. Surya Prasad Silwal (left) and President, ICAN CA, Yuddha Raj Oli (right) exchanging MOU

### Workshop on “Dimension of Public Financial Management at Province and Local Level” at Pokhara and Biratnagar

The Institute organized one day workshop on “Dimension of Public Financial Management at Province and Local Level” on 25<sup>th</sup> February, 2022 and 25<sup>th</sup> March, 2022 at Pokhara and Biratnagar respectively.

#### Pokhara

The program was Chaired by President, CA. Yuddha Raj Oli, where Hon’ble Finance Minister of Gandaki



Province Mr. Ramji Prasad Baral (Jeevan) was the Chief Guest of the program. Mr. Baburam Subedi, Joint Secretary, Ministry of Finance and Council Member, Mr. Badri Nath Adhikari, Secretary of Ministry of Province Internal Affairs were the Special Guest in the program. The program was conducted on three sessions. In the opening session, Coordinator, Pokhara Branch Advisory Committee CA. Laxman Adhikari gave his welcome remarks. Likewise, ICAN President, CA. Yuddha Raj Oli explained about the objective of the program and highlighted the major activities accomplished and ongoing in the Institute during the current fiscal year.



A Glimpse of Workshop on Dimension of Public Financial Management at Province and Local Level

In the second session of the program a technical paper was presented on Public Financial Management as given below:

Technical Session	Presentation Topic and Name of presenter
One	“Mobilization of Local Level Revenue: Opportunities and Challenges.”- Mr. Baburam Subedi, Joint Secretary, MoF and Council Member
Two	“Areas to Reform on Province and Local Level Financial Reporting” – CA. Amrit Shrestha
Three	“Status of Internal Control System and its Relevance in Development” CA. Nirmal Bartaula

In the last session of the program a Panel Discussion was held on various dimensions of Public Finance Management. CA. Yuddha Raj Oli, President, Mr. Babu Ram Subedi, Council Member, CA. Baikuntha Bahadur Adhikari, Council Member, CA. Nirmal Bartaula and CA. Amrit Shrestha were the Panelist in the session where, CA. Prabin Kumar Jha, Council Member and Chairman of Public Finance and Nepal Public Sector Accounting Standard (NPSAS) Committee was the Moderator of the session. Executive Director, CA. Sanjay Kumar Sinha concluded the program with closing remarks and vote of thanks to all the participants.



A Glimpse of Workshop on Dimension of Public Financial Management at Province and Local Level

### Biratnagar

The program was Chaired by ICAN President, CA. Yuddha Raj Oli where, Hon’ble Chief Minister of Province 1, Mr. Rajendra Kumar Rai was the Chief Guest of the program. Joint Secretary, Ministry of Finance (MoF) and Council Member, Mr. Baburam Subedi,

Chief District Officer (CDO), Morang, Mr. Kashi Raj Dahal, and Chief Executive Officer (CEO), Biratnagar Metropolitan City, Mr. Umesh Basnet were the Special Guests in the program. Vice President CA. Bhaskar Singh Lala, President of Auditor’s Association of Nepal (AuDAN), Mr. Mohan Raj Regmi, Executive Director CA. Sanjay Kumar Sinha and Coordinator of Biratnagar Branch Coordination Committee (BCC) CA. Aswini Bansal were also present in the program.



A Glimpse of Workshop on Dimension of Public Financial Management at Province and Local Level

The program was organized in two sessions. In the opening session, Coordinator Biratnagar BCC, CA. Aswini Bansal gave his welcome remarks and ICAN President, CA. Yuddha Raj Oli addressing to the gathering Olibriefed about the objective of the program and highlighted the major activities accomplished and ongoing in the Institute during the current fiscal year. In the second session presentation was made on Public Financial Management as below:

Technical Session	Presentation Topic and Name of presenter
One	“Mobilization of Local Level Revenue: Opportunities and Challenges.”- Mr. Baburam Subedi, Joint Secretary, MoF and Council Member
Two	“Status of Internal Control System and its Relevance in Development” – CA. Nanda Kishor Sharma
Three	“Ongoing Functions at Province and Local Level, Good Practices and Challenges and its Remedial Measures” – Mr. Umesh Basnet, CEO, Biratnagar Metropolitan City

Member, Biratnagar BCC, RA. Bijay Hari Sharma, concluded the program with closing remarks and vote of thanks to all the participants.

### Workshop on Practical Issues of Taxation, Value Added Tax (VAT) and Liquidity Scenario

With the support of Dhandagi Branch Coordination Committee (BCC), Dhandagi Branch Office of the Institute organized a full day workshop on “Practical Issues of Taxation, Value Added Tax (VAT) and Liquidity Scenario” on 21<sup>st</sup> March, 2022 at Dhandagi, Kailali. The program was Chaired by the Coordinator of Dhandagi BCC, CA. Umesh Raj Pandey where Chief Tax Officer of Inland Revenue Office (IRO), Dhandagi Mr. Gauri Shankar Upadhaya were the Chief Guest of the Program.

The program was organized in two sessions. In the first session Deputy Director of Nepal Rastra Bank presented on “Existing Economic and Financial Status of the Country and the Policy of Nepal Rastra Bank” and the second session was presented by Tax Officer of IRO Dhandagi, Mr. Binod Chudal on “E\_TDS, Mismatch Report, Payment and Receipt Tracking, and Full-Audit”. Likewise, Members of Dhandagi BCC, CA. Chiranjeevi Pathak, CA. Tek Raj Paneru and CA. Janma Raj Timilsina respectively addressed about Unique Document Identification Number (UDIN), Provision of Code of Ethics and Disciplinary Procedures of the Institute. Altogether, there were 116 participants in the workshop.

### Participation in Interaction Program on Anti-Money Laundering and Combating the Financing of Terrorism

The delegation of the Institute comprising of the President CA. Yuddha Raj Oli and Joint Director CA. Kiran Kumar Khatri participated in the Interaction Program between supervisory and regulatory bodies on topic “Anti-Money Laundering and Combating the Financing of Terrorism” organized by the Nepal Rastra Bank (NRB) on 28<sup>th</sup> March, 2022 at Kathmandu. President CA. Yuddha Raj Oli addressed the program delivering a welcome remark as a Special Guest in the program that was chaired by Governor of NRB.





President CA. Yuddha Raj Oli addressing at the Interaction Program

### Interaction Program on Roles and Activities of the Institute of Chartered Accountants of Nepal

The Institute organized an Interaction Program with Stakeholders on the topic “Roles and Activities of the Institute of Chartered Accountants of Nepal” on 24th March, 2022 at Biratnagar. In the program Executive Director, CA. Sanjay Kumar Sinha explained about the roles and objective of the Institute and highlighted the major Institutional activities related to Members and Member’s Supervision and Regulation and Disciplinary Proceedings of the Institute. Likewise, the queries and concerns raised by the participants were addressed by the President CA. Yuddha Raj Oli.

The participants of Interaction Program comprised of representatives of Province Chief Office, Federation of Journalist, Ministry of Agriculture, Biratnagar Metropolitan, Chief District Office, Morang; Revenue Investigation Office, Merchant Association, District Administrative Office and other general stakeholders at Morang. Likewise, Vice-President CA. Bhaskar Singh Lala, Council Member, Mr. Posh Raj Nepal, Past Council Member, Mr. Mohan Kumar Subedi and President AuDAN, Mr. Mohan Raj Regmi also present in the program.



A glimpse of Interaction Program on Role and Activities of the ICAN at Biratnagar

### International Relation: Global Positioning and Leadership

#### Technical Collaboration Agreement with The Institute of Chartered Accountants of Sri Lanka (CA Sri Lanka)

The Institute has signed Technical Collaboration Agreement (TCA) with CA Sri Lanka with the objective to strengthen, promote and develop the accountancy profession in both the country on the basis of equality and mutual benefit. The MoU was signed on 05<sup>th</sup> January, 2022 at CA Sri Lanka Office in Colombo.





*President CA Sri Lanka CA. Sanjaya Bandara and President ICAN, CA. Yuddha Raj Oli and along with the Council Member RA. Kesh Bahadur KC, Executive Director CA. Sanjay Kumar Sinha and officials of CA Sri Lanka during the MoU signing between ICAN and CA Sri Lanka.*

### International Exposure Visit to the Institute of Chartered Accountants of Bangladesh (ICAB)

The delegates from ICAN comprising of Council Member and Assistant Auditor General of the Office of Auditor General (OAG) Mr. Baikuntha Bahadur Adhikari and Deputy Director, CA. Himal Dahal visited the Institute of Chartered Accountants of Bangladesh (ICA Bangladesh) from 01<sup>st</sup> to 04<sup>th</sup> March, 2022. The objective of the visit was to understand the Chartered Accountancy syllabus implementation process adopted by CA Bangladesh including the major challenges faced by CA Bangladesh during implementation of new syllabus and methodologies applied to overcome the challenges.



*From left: Deputy Director, ICAB Md. Nasrat Hasan, ICAB President Md. Shahadat Hossain FCA, Assistant Auditor General of the OAG and Council Member Mr. Baikuntha Bahadur Adhikari, Deputy Director CA. Himal Dahal and Chief Operation Officer (COO) ICAB, Mahbub Ahmed Siddique FCA (right) during Exposure Visit to CA Bangladesh at Dhaka, Bangladesh*

### Participation in the SAFA Board, Assembly and Committee Meetings

The Delegates of ICAN led by the President of the Institute, CA. Yuddha Raj Oli visited Sri Lanka from 03<sup>rd</sup> January to 05<sup>th</sup> January, 2022 to participate in the SAFA Board, SAFA Assembly and Committee meetings organized by the Institute of Certified Management Accountants of Sri Lanka. The other delegates for the Institute were Council Member RA. Kesh Bahadur K.C. and Executive Director, CA. Sanjay Kumar Sinha.

### 25<sup>th</sup> South Asian Federation of Accountants, Best Presented Annual Reports Award, 2020 Ceremony (SAFA BPA Award, 2020)

The Institute of Chartered Accountants of Nepal attended the SAFA BPA Award Ceremony hosted by CA Sri Lanka virtually on 9<sup>th</sup> February, 2022. In the special ceremony, SAFA distributed awards in 15 different categories. All the participating SAFA Member Bodies organized this ceremony either physically or virtually at their respective countries to participate in the SAFA BPA Award Ceremony. Two Nepalese Organizations namely Nepal SBI Bank Limited and Bottlers Nepal Limited were awarded with the Merit Certificate in Private Banks Category and Manufacturing Category respectively. ICAN President CA. Yuddha Raj Oli distributed the award to Merit holders.



*President CA. Yuddha Raj Oli Presenting Merit Certificate to the Representative of Bottlers Nepal Ltd.*

## Institutional Development and Sustainability

### 25th Anniversary (Silver Jubilee) of the Institute Celebrated

The Institute has celebrated its 25<sup>th</sup> Anniversary (Silver Jubilee) on 31<sup>st</sup> January, 2022 at its head office, located at ICAN Marg, Satdobato, Lalitpur. The Chief Guest of the program was Hon'ble Auditor General Mr. Tanka Mani Sharma Dangal, he attended the program through virtual mode.

The program was inaugurated by Chairperson of the program and ICAN President, CA. Yuddha Raj Oli by

lightning the lamp. The welcome address in the occasion was made by President CA Yuddha Raj Oli and briefed about the key achievements and milestones achieved by the Institute during the Fiscal Year 2077/78, the key ongoing activities and future strategy of the Institute. During his address, he also congratulated all the Past Presidents, Past Council Members, Council Members, Committee Members, Staffs and all other Stakeholders, for their contribution and support for achieving the existing standing and legacy of the Institute. The President also felicitated all the Past Presidents by offering garland and acclaimed for their contribution to attain the Institute at this stage.



*A Glimpse of 25<sup>th</sup> Anniversary Celebration Program of the Institute*

During the program, Hon'ble Auditor General, Mr. Tanka Mani Sharma Dangal congratulated the Institute for the achievements made by the Institute and he emphasized on the importance of Accounting Professionals for National Development and focused on the importance and need for digitalization and good governance. Likewise, the Institute accorded Special Honor to Past Presidents of 8<sup>th</sup>

Council CA. Jagannath Upadhyay Niraula, CA. Krishna Prasad Acharya and CA. Madan Krishna Sharma. In this occasion, the Institute paid Special Honor to Founder President Late CA. Komal Bahadur Chitracar. The citation was presented to his spouse Mrs. Sharda Laxmi Chitracar during the program.





*Spouse of Late CA. Komal Bahadur Chitracar Mrs. Sharda Laxmi Chitracar Receiving the Special Honor from President CA. Yuddha Raj Oli*

Second Past President of the Institute CA. Tirtha Raj Upadhyay congratulated the Institute for the achievements made so far and applauded the Late Past Presidents for their remarkable contribution in bringing the Institute at present position. He also congratulated the entire team of the Institute.

Executive Director, CA. Sanjay Kumar Sinha highlighted the institutional activities and mainly focused on the management team of the Institute. The Institute also felicitated five staffs in recognition of their long-term service with “DeerghaSewaPadakka”, three staffs for their outstanding performance with “Best Staff of the Year” and two staffs for their performance and dedication with “Certificate of Appreciation”. Vice President, CA. Bhaskar Singh Lala concluded the program with closing remarks and vote of thanks to all the participants.

### **Souvenir, Strategic Plan and Annual Report Published**

On the special occasion of celebrating 25<sup>th</sup> Anniversary of the Institute on 31<sup>st</sup> January, 2022, the Institute published a Souvenir in reminiscence of last twenty-five years of history of the Institute. Likewise, Institute’s Strategic

Plan (2077/78 to 2080/81) along with the Annual Report for Fiscal Year 2077/78 was also published on the same occasion. Hon’ble Auditor General, Mr. Tanka Mani Sharma Dangal released the Souvenir and Strategic Plan of the Institute. Likewise, President CA. Yuddha Raj Oli, presented the Annual Report of Institute. The publication can be viewed from the link below:

Souvenir: [https://en.ican.org.np/\\_browsable/file/resouces/ICAN\\_souvenir.pdf](https://en.ican.org.np/_browsable/file/resouces/ICAN_souvenir.pdf)

Strategic Plan: [https://en.ican.org.np/\\_browsable/file/general/Strategic\\_Plan\\_ICAN.pdf](https://en.ican.org.np/_browsable/file/general/Strategic_Plan_ICAN.pdf)

Annual Report: [https://en.ican.org.np/\\_browsable/file/general/ICAN\\_Annual\\_Report\\_2020-21.pdf](https://en.ican.org.np/_browsable/file/general/ICAN_Annual_Report_2020-21.pdf)

### **Staff Training on “Office Etiquette and Personal Branding”**

The Institute organized a half day skill development training for its staffs on “Office Etiquette and Personal Branding” on 11<sup>th</sup> February, 2022 at ICAN premises, Satdobato, Lalitpur. The staff working at branch offices participated virtually. The training was focused on the way of creation of personal as well as official branding along with development of communication skills. The

training was conducted by Ms. Mansi Agrawal, the corporate trainer.

### Recruitment of New Staffs

The Institute recruited six staffs in different levels on contractual basis effective from 15th March, 2022 in the position of Joint Director (1), Deputy Director (1), Assistant Director (1), Senior Officer (IT) (1), Officer (1) and Assistant level (1). Similarly, the Institute also recruited fourteen permanent staffs in different levels effective from 30th March, 2022 in the position of Senior Officer (1), Officer (9), Senior Assistant (1) and Assistant (3).

### Lease Agreement Signed with Biratnagar Metropolitan City

The Institute has signed lease agreement with the Biratnagar Metropolitan City on 19<sup>th</sup> January 2022 to acquire three kathha of land for thirty years to construct its own building for Branch Office in Biratnagar. President, CA. Yuddha Raj Oli, Vice-President, Bhaskar Sing Lala, Council Member, Mr. Uma Kant Acharya, Executive Director, CA. Sanjay Kumar Sinha including members of Biratnagar Branch Coordination Committee headed by the Coordinator CA. Ashwini Bansal participated in the lease agreement signing ceremony organized in the office of Biratnagar Metropolitan City that was chaired by Mayor Mr. Bhim Prasad Parajuli.

## ICAN NOTICE

### Press Release

The Institute has issued press release drawing attention of other entities for imposing legal action against the Members in course of audit performed by them. Likewise, the Institute has further clarified the stakeholders that the Institute is the independent and autonomous regulatory body for regulation of Accounting Profession in Nepal. Likewise, the press release also explains about the roles and responsibility of the Institute for supervision, monitoring, regulation and any kind of disciplinary proceedings to be taken against its Members in course of

Member's Conduct found to be not in compliance with the professional, legal and regulatory requirement. The press release can be viewed from the link below:

<https://en.ican.org.np/uploads/downloads/files/3/adb3e608fe0143c4aa5973fc0014ab9c.pdf>

### Empanelment of Faculties and Resource Persons

The Institute has re-published a notice requesting Expression of Interest (EoI) from faculties and resource persons for various activities being organized from the Institute by hiring expert services of the Professionals. For this purpose, the Institute has developed an online Multipurpose Empanelment Form (MPEF), which is available in the website of the Institute <https://en.ican.org.np/en/> or can be accessed directly from the link <https://mpef.ican.org.np/>. The notice can be viewed from the link below:

<https://en.ican.org.np/uploads/downloads/files/3/d9bb7ce304d947ab1150cbdda1d877a7.pdf>

### Notice Regarding UDIN

In order to enhance the social recognition and credibility towards the profession and systematize the audit, the Institute of Chartered Accountants of Nepal has issued a notice related to authenticity and use of Unique Document Identification Number (UDIN) by the members for the certification of the report. The notice can be viewed from the link below:

<https://en.ican.org.np/uploads/downloads/files/3/869d6cbf4ecafb717f2d93c5cb41a760.pdf>

### CPE Schedule Published

The Institute of Chartered Accountants of Nepal has issued notice regarding schedule of continuing professional Education (CPE) program for its members for Fiscal Year 2078/79. Member of the Institute can accumulate credit hours by attending the CPE trainings for renewal of Membership, Certificate of Practice (COP) and Firm. The Schedule can be viewed from the link below:

<https://en.ican.org.np/uploads/downloads/files/3/1bd1293ff7abd1e80130d8b84958df04.pdf>

## NATIONAL UPDATES

### **Refinance Guidelines, 2077 (Fourth Amendment)**

Nepal Rastra Bank has issued Refinance Guidelines, 2077 (fourth amendment) on 22<sup>nd</sup> March, 2022. The Guidelines can be viewed from the link below:

<https://www.nrb.org.np/contents/uploads/2022/03/Nepal-Rastra-Bank-Refinance-Procedure-2077-Fourth-Amendment.pdf>

### **Issuance of Foreign Bank Branch Licensing Policy, 2022**

Nepal Rastra Bank has issued Foreign Bank Branch Licensing Policy, 2022 and the Policy Provision for Opening Branch Office by Foreign Bank or Financial Institutions in Nepal, 2010 has been repealed thereof. The Policy can be viewed from the link below:

<https://www.nrb.org.np/contents/uploads/2022/03/Notice-no-14-Foreign-Bank-Branch-Policy-2022-1.pdf>

### **Amendment in Guidelines related to granting approval for Companies providing only Hire Purchase Loan, 2070 (Second Amendment, 2075)**

Nepal Rastra Bank has amended guidelines related policies, procedures and other provision for providing approval to companies dealing only hire purchase loan, 2070 (Second Amendment, 2078). The notice along with the guidelines can be accessed from the website of Nepal Rastra Bank that can be viewed from the link below:

<https://www.nrb.org.np/contents/uploads/2022/01/Notice-No.-11-hirepurchase-with-manual.pdf>

### **Guideline on Environmental & Social Risk Management (ESRM) for Banks and Financial Institutions, 2022**

Nepal Rastra Bank has issued Guideline on Environmental & Social Risk Management (ESRM) for Banks and Financial Institutions, 2022 with the core objective to require BFIs to integrate Environmental & Social risk management into the overall credit risk management

process in order to fully inform the credit authority of E&S risks prior to the financing decision regarding individual transactions. The Guidelines can be viewed from the link below:

<https://www.nrb.org.np/contents/uploads/2022/02/Final-ESRM-without-cover-1.pdf>

### **Circular for Amendment in Unified Directives to A, B and C Class Bank and Financial Institutions, 2078**

Nepal Rastra Bank has issued circular to A, B and C Class Bank and Financial Institutions regarding amendments made in the Unified Directive, 2078. The Circular can be viewed from the link below:

<https://www.nrb.org.np/contents/uploads/2022/01/ABC-Circular-no-9.pdf>

and,

<https://www.nrb.org.np/contents/uploads/2022/02/ABC-circular-no-10.pdf>

### **Unified Directives to D Class Micro Finance Financial Institutions, 2078**

Nepal Rastra Bank has issued Unified Directives to Micro Finance Financial Institutions, 2078 incorporating the Circular issued till 07<sup>th</sup> Mangsir, 2078 and Unified Directives. The Directives can be viewed from the link below:

<https://www.nrb.org.np/contents/uploads/2022/01/Final-Unified-Directive-Microfinance-2078.pdf>

### **Circular for Amendment in Unified Directives to Micro Finance Financial Institutions, 2078**

Nepal Rastra Bank has issued circular to D Class Micro Finance Financial Institutions regarding amendments made in the Unified Directives to Micro Finance Financial Institutions, 2078. The Circular can be viewed from the link below:

<https://www.nrb.org.np/contents/uploads/2022/01/D-Circular-no-4.pdf>

and,

<https://www.nrb.org.np/contents/uploads/2022/01/D-Circular-no-5.pdf>



## Unified Directives to Infrastructure Development Bank, 2078

Nepal Rastra Bank has issued Unified Directives to Infrastructure Development Bank, 2078 incorporating the Circular issued till 26<sup>th</sup> Magh, 2078 and Unified Directives, 2075. The Directives can be viewed from the link below:

<https://www.nrb.org.np/contents/uploads/2022/02/Directives-for-Infrastructure-Development-Banks-2078-1.pdf>

## Circular for Amendment in Unified Directives to Infrastructure Development Bank, 2078

Nepal Rastra Bank has issued circular to Infrastructure Development Bank regarding amendments made in the Unified Directives to Infrastructure Development Bank, 2078. The Circular can be viewed from the link below:

<https://www.nrb.org.np/contents/uploads/2022/02/Circular-no-3-NIFRA.pdf>

## Insurer Merger and Acquisition Directive, 2076 (First Amendment)

Insurance Board has issued first amendment on Insurer Merger and Acquisition Directive, 2076. The directives can be viewed from the link below:

<https://nib.gov.np/wp-content/uploads/2022/02/Merger-and-Acquisition-Directives-with-First-amendment-compressed.pdf>

## Risk Based Capital and Solvency Directive, 2078

Insurance Board has issued Risk Based Capital and Solvency Directive, 2078. The objective of Directive is to ensure that insurers maintain a capital adequacy level commensurate with their risk profiles in order to make sure that they have enough financial resources to withstand financial difficulties, in such a manner that they have in place a sound system of governance, in particular a robust risk management system and prudent written underwriting, investment and asset-liability management policies. The directives can be viewed from the link below:

<https://nib.gov.np/wp-content/uploads/2022/02/newRisk-Based-Capital-and-Solvency-Directive-2022-2078-and-ANNEXURES.pdf>

## Climate Risk Related Directive, 2078

Insurance Board has issued Climate Risk Related Directive, 2078. The objective of Directive is to address the impact and risk of climate change to the insurer and evaluate the actions and measures taken by the insurer. The Directives can be viewed from the link below:

<https://nib.gov.np/wp-content/uploads/2022/01/Directive-on-Climate-Risk-Disclosures.pdf>

## Circular regarding Digital Insurance Policy and Transaction through Cheque

Insurance Board has issued circular to all the life and Non-life Insurance Companies regarding procedures to be followed while issuing digital insurance policy and prescribing threshold for compulsory use of account payee cheque for digital transfer while making payment for insurance premium exceeding the threshold amount. The Circular can be viewed from the link below:

<https://nib.gov.np/wp-content/uploads/2022/01/Circular-5.2078.79.pdf>

## Insurer Chief Executive Office's Salary, Allowance and other Facility Related Guidelines, 2074 (First Amendment)

Insurance Board has issued first amendment on Insurer Chief Executive Office's Salary, Allowance and other Facility Related Guidelines, 2074. The Guidelines can be viewed from the link below:

<https://nib.gov.np/wp-content/uploads/2022/02/CEOs-Salary-and-Allowances-Guidelines-with-first-amendment.pdf>

## Income Tax Directives, 2066 (Fourth Amendment, 2078)

Inland Revenue Department has issued Income Tax Directives, 2066 (Fourth Amendment, 2078). The Directives can be viewed from the link below:

<https://ird.gov.np/public/pdf/1114992545.pdf>

## INTERNATIONAL UPDATES

### IAASB Releases Conforming and Consequential Amendments Aligning Existing IAASB Standards to New, Revised Quality Management Standards

The International Auditing and Assurance Standards Board (IAASB) has released further conforming and consequential amendments to the IAASB's standards resulting from the new and revised quality management standards, which were released in December 2020. The conforming amendments remove actual or perceived inconsistencies between the IAASB's suite of standards and the quality management standards. This allows the IAASB's full suite of standards operate in conjunction with each other and without confusion, which is especially crucial given the importance of firm-level quality management to the consistent performance of quality engagements. The conforming amendments to the IAASB's International Standards become effective as of 15<sup>th</sup> December, 2022. The detail can be viewed from the link below:

<https://www.iaasb.org/news-events/2022-01/iaasb-releases-conforming-and-consequential-amendments-aligning-existing-iaasb-standards-new-revised>

### IAASB Digital Technology Market Scan: API Access

The IAASB's Disruptive Technology team has issued second market scan based on their previous work, including the Innovation Report created with Founders Intelligence and discussed at the January 2021 IAASB meeting and will issue a Market Scan focusing on topics from the report approximately every two months. Market Scans will consist of exciting trends, including new developments, corporate and start-up innovation, noteworthy investments and what it all might mean for the IAASB. The detail can be viewed from the link below:

<https://www.iaasb.org/news-events/2022-01/iaasb-digital-technology-market-scan-api-access>

### IESBA Staff Releases FAQs On Revised Fee-Related Provisions of IESBA Code

The Staff of the International Ethics Standards Board for Accountants (IESBA) has released a set of frequently asked questions (FAQs) on the recently revised fee-related provisions of The International Code of Ethics for Professional Accountants (including International Independence Standards) (the Code)\*. The FAQs have been informed by the extensive discussions and consultations with a wide range of stakeholder groups and the IESBA's own deliberations during the development and finalization of the standard. The detail can be viewed from the link below:

<https://www.ethicsboard.org/news-events/2022-01/iesba-staff-releases-faqs-revised-fee-related-provisions-iesba-code>

### IPSASB Issues Improvements to IPSAS, 2021

The International Public Sector Accounting Standards Board® (IPSASB®) has issued Improvements to IPSAS, 2021. The pronouncement was approved by the IPSASB in December 2021. Improvements to IPSAS, 2021 includes minor improvements to IPSAS to address issues raised by stakeholders and minor amendments sourced from recent IFRS improvements and narrow scope projects. The detail can be viewed from the link below:

<https://www.ipsasb.org/news-events/2022-01/ipsasb-issues-improvements-ipsas-2021>

### IPSASB Issues IPSAS 43, Leases

The International Public Sector Accounting Standards Board® (IPSASB®) has issued International Public Sector Accounting Standard® (IPSAS®) 43, Leases. IPSAS 43 is based on International Financial Reporting Standard (IFRS®) 16, Leases, developed by the International Accounting Standards Board (IASB®). For lessees, IPSAS 43 introduces a right-of-use model that replaces the risks and rewards incidental to ownership model in IPSAS 13, Leases. For lessors, IPSAS 43 substantially carries forward the risks and rewards incidental to ownership model in IPSAS 13. IPSAS 43 has an effective date of January 1, 2025. Earlier application is permitted

in certain circumstances. The detail can be viewed from the link below:

<https://www.ipsasb.org/news-events/2022-01/ipsasb-issues-ipsas-43-leases>

### Going concern—a focus on disclosure

The IFRS Foundation has published educational material on Going concern—a focus on disclosure. The education material can be accessed by clicking in the link below:

<https://www.ifrs.org/content/dam/ifrs/news/2021/going-concern-jan2021.pdf>

### IFAC and ICAEW Renew Anti-Money Laundering Educational Series, Release First of Three New Installments

Together with Institute of Chartered Accountants in England and Wales (ICAEW), The International Federation of Accountants (IFAC) released a new installment in its Anti-Money Laundering: The Basics educational series: Installment Seven: Virtual Assets. The publication is part of a series helping accountants enhance their understanding of how money laundering works, the risks they face, and what they can do to mitigate these risks and make a positive contribution to the public interest. Installment seven looks at the broad new class of assets that have emerged over the past decade known as virtual assets, including Bitcoin and NFTs (non-fungible tokens). The detail can be viewed from the link below:

<https://www.ifac.org/news-events/2022-02/ifac-and-icaew-renew-anti-money-laundering-educational-series-release-first-three-new-installments>

### New IFAC Digital Platform Assists Public Sector Transition from Cash to Accrual Accounting: Pathways to Accrual

To contribute to and promote the development, adoption, and implementation of high-quality international standards, the International Federation of Accountants (IFAC) launched a new digital platform, Pathways to Accrual, providing a central access point to resources helpful for governments and other public sector entities planning and undertaking a transition from cash to accrual accounting including adopting and implementing

International Public Sector Accounting Standards (IPSAS).

Pathways to Accrual builds upon the work of the International Public Sector Accounting Standards Board (IPSASB)'s Study 14, Transition to the Accrual Basis of Accounting: Guidance for Governments and Government Entities with updated content and a modernized presentation with easier navigation. Explore the platform: <https://pathways.ifac.org/standards/pathways/2021>. The detail can be viewed from the link below:

<https://www.ifac.org/news-events/2022-02/new-ifac-digital-platform-assists-public-sector-transition-cash-accrual-accounting-pathways-accrual>

### IESBA takes Firm Action to Respond to Transformative Effects of Technology

The International Ethics Standards Board for Accountants (IESBA) released for public comment proposed revisions to the International Code of Ethics for Professional Accountants (including International Independence Standards). The Exposure Draft Proposed Technology-related Revisions to the Code seeks to enhance the Code's robustness and expand its relevance in an environment being reshaped by rapid technological advancements. The proposed amendments will guide the ethical mindset and behavior of professional accountants in business and in public practice as they deal with changes brought by technology in their work processes and the content of the services they provide.

The IESBA invites all stakeholders to comment on the Exposure Draft by visiting the IESBA website. Comments are requested by June 20, 2022. The detail can be viewed from the link below:

<https://www.ethicsboard.org/news-events/2022-02/iesba-takes-firm-action-respond-transformative-effects-technology>

### IESBA Addresses Independence Expectations in Group Audits

The International Ethics Standards Board for Accountants (IESBA) has released for public comment the Exposure

### Draft Proposed Revisions to the Code Relating to the Definition of Engagement Team and Group Audits.

The proposed revisions establish provisions that comprehensively address independence considerations for firms and individuals involved in an engagement to perform an audit of group financial statements. The proposals also address the independence implications of the change in the definition of an engagement team—a concept central to an audit of financial statements—in the International Auditing and Assurance Standards Board’s (IAASB) International Standard on Auditing (ISA) 220, Quality Management for an Audit of Financial Statements.

The IESBA invites all stakeholders to comment on the ET-GA ED by visiting the IESBA’s website. Comments are requested by May 31, 2022. The detail can be viewed from the link below:

<https://www.ethicsboard.org/news-events/2022-02/iesba-addresses-independence-expectations-group-audits>

### **IPSASB Proposes Important Limited Scope Updates to its Conceptual Framework**

The International Public Sector Accounting Standards Board (IPSASB) has released Exposure Draft (ED) 81, Conceptual Framework Update: Chapter 3, Qualitative Characteristics and Chapter 5, Elements in Financial Statements. ED 81 is the second exposure draft resulting from the limited scope project to revise the Conceptual Framework in specified areas. ED 81 proposes updates to the chapters of the Conceptual Framework dealing with the attributes of financial information that make financial reporting useful-qualitative characteristics-and the building blocks of financial statements-elements.

To access the Exposure Draft, its summary At-a-Glance document, or to submit a comment, visit the IPSASB website. Comments are requested May 31, 2022. The IPSASB encourages IFAC members, associates, and Network Partners to promote the availability of this Exposure Draft to their members and employees. The detail can be viewed from the link below:

<https://www.ipsasb.org/news-events/2022-02/ipsasb->

[proposes-important-limited-scope-updates-its-conceptual-framework](#)

### **New Implementation Guide Available for Quality Management for Audits of Financial Statements**

The International Auditing and Assurance Standards Board (IAASB) has released First-time Implementation Guide for ISA 220, Quality Management for an Audit of Financial Statements. The guide will help stakeholders understand the standard and properly implement its requirements as intended.

Alongside the previously released implementation guides for International Standard on Quality Management (ISQM) 1 and 2, the new Guide will help stakeholders implement the IAASB’s suite of quality management standards. The suite of standards was released in December 2020 and come into effect on December 15, 2022.

These publications do not amend or override ISA 220 or ISQM 1 or 2, the text of which alone are authoritative. Reading these publications are not a substitute for reading the ISQMs. The IAASB encourages all practitioners to plan early for appropriate implementation, given the potential impact of the changes to firms’ quality management systems. The detail can be viewed from the link below:

<https://www.iaasb.org/news-events/2022-02/new-implementation-guide-available-quality-management-audits-financial-statements>

### **IFAC and ICAEW Examine Recent Crime Trends in Latest Installment of Anti-Money Laundering Thought Leadership Series**

Together with Institute of Chartered Accountants in England and Wales (ICAEW), The International Federation of Accountants (IFAC) released a new installment in its Anti-Money Laundering: The Basics educational series: Installment Eight: Crime Trends.

The publication is part of a series helping accountants enhance their understanding of how money laundering



works, the risks they face, and what they can do to mitigate these risks and make a positive contribution to the public interest. Installment eight looks at recent crime trends like human trafficking and terrorist financing and the role money laundering plays. The detail can be viewed from the link below:

<https://www.ifac.org/news-events/2022-03/ifac-and-icaew-examine-recent-crime-trends-latest-installment-anti-money-laundering-thought>

### **IFAC Welcomes U.S. SEC’s Action to Enhance Climate Disclosures; Continues Support for Global Alignment**

The International Federation of Accountants (IFAC) welcomes the U.S. SEC’s proposal on enhanced climate disclosures, as we continue our work in support of a global system for delivering consistent, comparable and assurable sustainability information. The SEC’s action is one more important demonstration of the need to enhance and evolve corporate reporting.

Sustainability-related disclosure is now a core component of the corporate reporting ecosystem, as reflected in global and jurisdiction-specific initiatives. Climate and other ESG matters are decision critical. Regulatory frameworks must promote rigor, clarity, and consistency of information, both to meet investor demands and those of other stakeholders. The detail can be viewed from the link below:

<https://www.ifac.org/news-events/2022-03/ifac-welcomes-us-sec-s-action-enhance-climate-disclosures-continues-support-global-alignment>

### **IFAC Releases News Exploring the IESBA Code Installment Focused on Technology**

The International Federation of Accountants (IFAC) released a new resource, Exploring the IESBA Code, A Focus on Technology: Artificial Intelligence. This two-page publication highlights the application of the International Code of Ethics for Professional Accountants (including International Independence Standards) (the Code), in particular, the relevance of the Code’s fundamental principles and its conceptual framework to

addressing ethics issues that might arise when artificial intelligence (AI) is used or implemented by professional accountants. Specifically, the installment sets out an AI scenario to assist accountants in identifying, evaluating and addressing threats to compliance with the Code’s fundamental principles. The detail can be viewed from the link below:

<https://www.ifac.org/news-events/2022-03/ifac-releases-new-exploring-iesba-code-installment-focused-technology>

### **IAASB Digital Technology Market Scan: Artificial Intelligence—A Primer**

Welcome to the third Market Scan from the IAASB’s Disruptive Technology team. Building on our previous work, which included the Innovation Report created with Founders Intelligence and discussed at the January 2021 IAASB Meeting, we issue a Market Scan focusing on topics from the report approximately every two months. Market Scans consist of exciting trends, including new developments, corporate and start-up innovation, noteworthy investments and what it all might mean for the IAASB. The details can be viewed from the link below:

<https://www.iaasb.org/news-events/2022-03/iaasb-digital-technology-market-scan-artificial-intelligence-primer>

### **IESBA Plans Global Roundtables on Enhancing Ethics Considerations Relating to Tax Planning and Related Services**

The International Ethics Standards Board for Accountants (IESBA) will hold a series of three global virtual roundtables to obtain stakeholder feedback on matters it is considering relating to the development of an ethics standard addressing the provision of tax planning and related services by professional accountants in business (PAIBs) and professional accountants in public practice (PAPPs).

In recent years, much public attention has focused on the topic of tax planning and related services, notwithstanding the legality of the tax mitigation schemes, structures or

transactions to achieve desired tax outcomes. Questions have been raised regarding the ethical implications for integrity and professional behavior, among other fundamental ethics principles, when PAIBs are involved in developing or implementing tax strategies that are perceived as “aggressive,” or when PAPPs provide advice to their clients on such strategies. The issue is of such major public interest significance that it has been discussed on the G20 agenda. The details can be viewed from the link below:

<https://www.ethicsboard.org/news-events/2022-03/iesba-plans-global-roundtables-enhancing-ethics-considerations-relating-tax-planning-and-related>

## IPSASB Seeks Comments on Retirement Benefit Plans Proposals

The International Public Sector Accounting Standards Board (IPSASB) has released for comment Exposure Draft (ED) 82, Retirement Benefit Plans. This ED is intended to increase the transparency and accountability of public sector entities regarding multi-employer retirement benefit obligations. Stakeholder comments on ED 82 are sought by August 1, 2022. The details can be viewed from the link below:

<https://www.ipsasb.org/news-events/2022-04/ipsasb-seeks-comments-retirement-benefit-plans-proposals>

## नेपाल चार्टर्ड एकाउन्टेन्ट्स संस्थाको

### प्रेस विज्ञप्ती

मिति: २०७८ चैत्र १ गते

नेपाल चार्टर्ड एकाउन्टेन्ट्स संस्था राष्ट्रको आर्थिक विकास गर्नको निमित्त लेखाको महत्व तथा लेखा व्यवसायीको आर्थिक एवं सामाजिक उत्तरदायित्व प्रति जनचेतना जगाई नेपालमा लेखा व्यवसायको विकास, संरक्षण र सम्बर्द्धन गर्नका लागि नेपाल चार्टर्ड एकाउन्टेन्ट्स ऐन, २०५३ अन्तर्गत स्थापित एक स्वायत्त र नियमनकारी निकाय (Regulatory Body) हो । यसै सन्दर्भमा, संस्थाका सदस्यले लेखा व्यवसायको सिलसिलामा भए गरेका काम कारवाहीका आधारमा विभिन्न निकायहरूले यस संस्थासँग कुनै पनि तवरले समन्वय नगरी त्यस्ता सदस्य उपर कानूनी कारवाही अगाडि बढाएको भन्ने कुरा विभिन्न संचार माध्यमबाट जानकारी हुन आएकोले यस सम्बन्धमा संस्थाको गम्भिर ध्यानाकर्षण भएको छ । लेखा व्यवसाय (लेखापरीक्षण समेत) गरेकै आधारमा लेखा व्यवसायीलाई अन्य निकायबाट कारवाही गर्ने वा कारवाहीको सिफारिस गर्ने लगायतका कार्यले यस संस्थाको क्षेत्राधिकारलाई संकुचन गर्न सक्ने र समग्र लेखा व्यवसायीहरूमा गम्भिर नकारात्मक असर पर्न जाने देखिन्छ । तसर्थ यस संस्थाका सदस्यहरूले लेखा व्यवसायको सिलसिलामा नेपाल चार्टर्ड एकाउन्टेन्ट्स ऐन वा नियम वा आचार संहिता विपरीत काम गरेको जानकारी प्राप्त भएमा सो उपर छानविन गरी आवश्यक कारवाही गर्ने क्षेत्राधिकार नेपाल चार्टर्ड एकाउन्टेन्ट्स ऐनले यसै संस्थालाई मात्र प्रदान गरेकोले यसरी उल्लेखित ऐन, नियम तथा आचार संहिता विपरीत कार्य गरेको पाइएमा जुनसुकै व्यक्ति वा निकायबाट यस संस्थामा उजुरी प्राप्त भएमा यस संस्थाबाट छानविन गरी कारवाही गरिने व्यहोरा जानकारी गराइन्छ । साथै यस संस्थाका सदस्यले लेखा व्यवसायको कार्य गर्दा दिएको प्रतिवेदनको सम्बन्धमा कुनै निकायलाई कैफियत भएको लागेमा यस संस्थासँग समन्वय गरेर मात्र अन्य कानूनी कारवाहीको प्रकृया अगाडी बढाउनु हुन अनुरोध छ ।



नेपाल चार्टर्ड एकाउन्टेन्ट्स संस्था

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# Fundamental Principles of Professional Accountants

INTEGRITY

OBJECTIVITY

PROFESSIONAL  
COMPETENCE  
AND DUE CARE

CONFIDENTIALITY

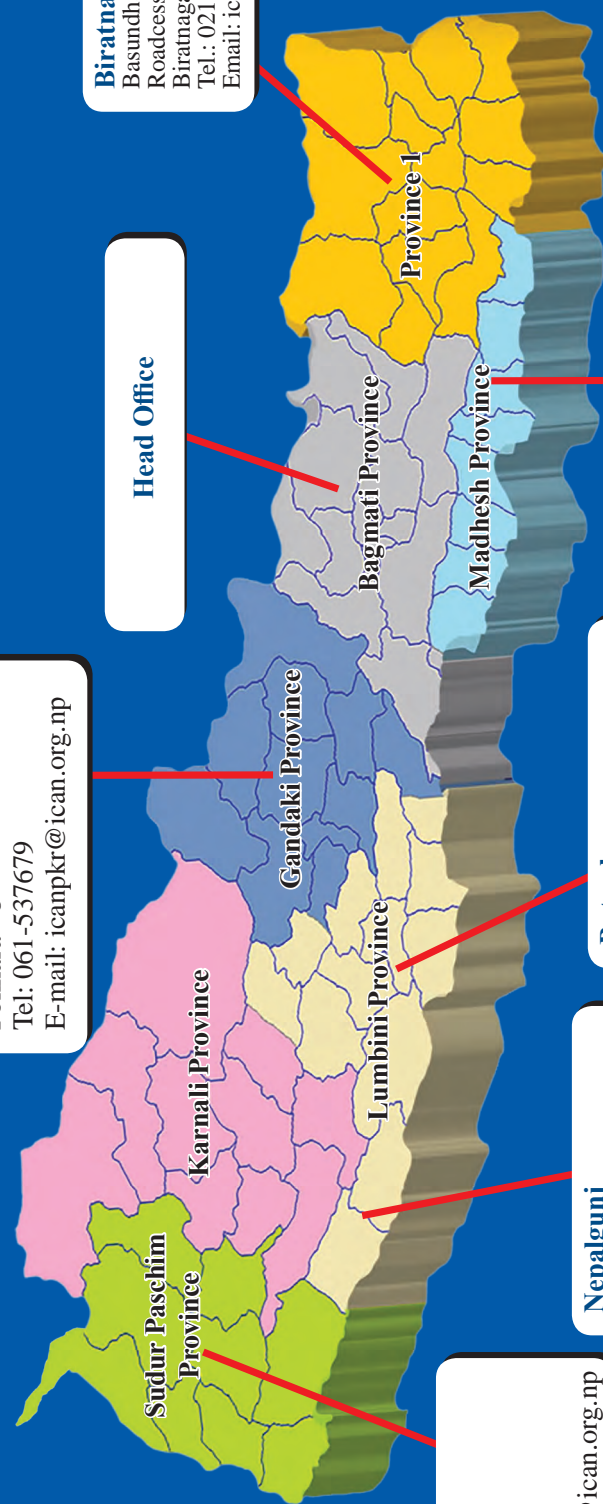
PROFESSIONAL BEHAVIOR



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